App. F. IX-4

*Previous References*

193 .
( 65 )

File No. 40-38
Serial Nos. 75 11

*Later References.*

P 384(E)

# GENERAL AND REVENUE SECRETARIAT.

*Serial Nos.*

**Part B for**

**SUBJECT.**

Amendment of the Co-op. Societies Act in regard to and attachment and sale of properties of defaulters on the basis of Section 57A of the Madras Act

WD 0575—GPB—22,500—12-9-89

Recommendations of the Committee on Co-operation in Mysore in the matter of execution of decrees.

General and Revenue Secretariat

CS File No. of 193 [App. P. III–2

Serial No.

1) It is held that in the G.O. placed below the recommendations of the Committee in the matter of execution of C.S. decrees have been ordered to be examined separately. If called the remarks of the Revenue Board will be called for on the recommendations. A draft letter is laid for approval

10/11/38 Secy: L&Leg 11.11.38

3) Yours

12/11/38

No. D. 4402 dy. 15-11-38 To the Revn. Comm.

Calls for remarks in the matter of the recommendations of the Committee on Co-operation in Mysore in the matter of execution of decrees.

16/11

2 Letter No 1563/38-39 dated 21-11-39 from the Revenue Board furnishing his opinion on the amendment of the B.S. Act.

4) The Revenue Board is agreeable to the amendment of Section 43A(4) of the B.S. Act and Section 156 of the L.R. Code.

5) The Registrar has, in connection with the amendment of the B.S. Act suggested the addition of the words "has been

NOTE—Contn. Sheet.

6307

File No. LO of 193 8.

General and Revenue Secretariat

Serial No.

to section 43A(4) of the Act. As extract of the amendment proposed is placed below for perusal ↑

b) The question of amending the Land Revenue Code in accordance with the orders of the Committee on Co-operation to be dealt with in the Revenue Branch

c) The Amendment of the C.S. Act on the line of section 57A of the Madras Act has been taken up in connection with the amendment of section 66 of the C.S. Act (which is solely applicable to L.M. Boards) so as to extend its operation to the Boards, in addition to the Apex Bank. But it was considered that this branch was extraordinary and was not agreed to by Govt. If approved the Registrar will be consulted suggestions on the question of amending the section 156 of the Land Revenue Code. Further proposals

9/5/39 g A. May be done

Secy: LSG

9.5.39

g

11.5.39

12.5.39

Dept. of Local Self Govt.
10 MAY 1939
Govt. of Madras

Dept. 1

A.

General and Revenue Secretariat | CS File No. of 193 . [App. F. III–2

Serial No.

U.O No. A. 310 288
13. 5. 39.

Office of the Registrar of Co-operative Societies
15 MAY 1939
No. 7525

Memo

10) Forwarded with Compliments (appropriately to the Registrar of Cooperative Societies) in reply to his memo

By order
Hanuman Roy
for Secretary to Government

13936 Gen. Dept. 25.5.39

to the L. R. S. Department 13/5/39

Retransmitted with compliments.

11) The Revenue Commissioner is of opinion that by incorporating in the Mysore Co-operative Societies' Act a provision similar to Section 57 A. of the Madras Co-operative Societies' Act, the Co-operative Department will have the power to attach and sell standing crops and that this power should not be given lest it should affect the recovery of Land revenue. He is not against the recommendation of the Co-operative Committee in other respects. The standing crops may be specially excluded from attachment by the Co-operative Department and the other provisions of Section 57 A. of the Madras Act may perhaps be adopted. If this is accepted, the Section to be incorporated in the Mysore Co-operative Societies' Act will read as under:--

"The Registrar or any person subordinate to him empowered by the Registrar in this behalf may, subject to such rules as may be prescribed by Government and without prejudice to any other mode of recovery provided by or under this

GEN. & REVENUE SECRETARIAT 21 MAY 1939 DRAWING BRANCH

NOTE—Contn. Sheet.

Act, recover

(a) any amount due under a decree or order of a Civil Court, a decision of the Registrar or an award of the ~~arbitrator~~ arbitrator, obtained by a registered society including a financing bank or liquidator; or

(b) any sum awarded by way of costs under Section 37 to a registered society including a financing bank or to the Government: or

(c) any sum ordered under Section 42 to be recovered as a contribution to the assets of a society or as costs of liquidation; or

(d) any sum ordered under section 42A to be repaid to a society or recovered as a contribution to its assets, together with the interest, if any, due on such amount or sum and the costs of process by the attachment and sale of the property-except standing crops - of the person against whom such decree, decision, award, or order has been passed".

12) The Department is now faced with the problem of recoveries and the position is daily getting more and more acute, due to depression and the accumulation of arrears from 1930. The position of the financing institutions is becoming very precarious as a result of heavy outstandings. Instances are not wanting in which proper action at the right time has resulted in actual recoveries. As things stand at present, the officers of the Department pass

decrees and the work of recovery is in the hands entirely of the Revenue Department and of Civil Courts in cases in which the decrees are transferred to them. Thus after the decree is passed the Department can take no action for recovery. I think that this is in a way responsible for the heavy accumulation of arrears. I am of opinion that by empowering the Department to recover decretal dues by attachment and sale of properties (excepting standing crops) of the persons concerned, the recoveries would improve and the accumulation of arrears would be largely prevented.

Bangalore,
23rd May 1939.

Registrar of Co-operative Societies.

13) It is submitted the Registrar who was consulted on the amendment of Section 156 of the L.R.C has not replied to the point in his unofficial note. It has since been ascertained by phone from the Personal Assistant to the Registrar that the Department has no objection to the proposal of the Revenue Board.

14) On the question of making provision in the Mysore Act. on the lines of Section 57A of the Madras Act the Registrar suggests that it is necessary in the interests of the recovery of arrears due to the Apex Bank & other Central financing institutions. This question was first considered and negatived. The Registrar now is of opinion that the attachment of standing crops may be left out of the scope of the proposed section and other portions included. If the proposal is to be accepted the proposed section will have to be added as Section 43 C (2) renumbering (2) as (3) and adding "and (2)" after (a) in the Subsection. It seems desirable to obtain further remarks of the Revenue

Execution of Cooperative decrees

6307

General and Revenue Secretariat | File No. 60 of 193 P. | [App. F. III-2

| Serial No. | |
|---|---|
| | Comes on the proposal of the Registrar for introducing the Bhanus after excluding the standing crops from the operation of the Section, as it is necessary to find out how far such power could be given to the Registrar without affecting the privileges and powers of the revenue department for recovery of arrears of land revenue. Submitted for orders |
| | 11/7/39 15 The amendment now proposed by the Registrar may be approved. Reg. Genl. Secy 11/7 |
| | 16 How will the sale & attachment & keeping be effected by the departmental officers - Will this involve any additional staff or expenditure - Obtain the necessary information from the Registrar - Send a copy of the Registrar's enclosure note to the R.C for his remarks 13/7 |
| | 17 Two drafts placed for above 14/7/39 18 Regr 14/7 |
| 3 | No D593 of 18.7.35 To the R. C. Nos: for remarks a Copy of the unofficial note |
| 4 | No D 592 of 18-7-35 To the Regr C.S. Enquiries whether the sale & attachment of the property can be the Regr will be effected by Deptl. officers |

NOTE—Contn., Sheet.

GENERAL SECRETARY. 12 JULY 1939

* of the Co-operative Societies earlier due to the ... June 39. The delay ... Section

6307 136
A47

bb File No. 40 of 193 8

General and Revenue Secretariat.

Serial No. C.S.

Letter No. 1125 Dated 27-7-39 from the Nyr and Tale stating that the [illegible] attachment of the property of the Resdr will not involve any additional expenditure.

19 The opinion of the Revenue Law Officer has been called for. and the receipt of the reply will be awaited

20 This was one of the subjects discussed by the Resdr with the Dewan & Second member of Council and is also one of the subjects to be discussed at the ensuing meeting of the officers on 14/8/39. The Resdr will be reminded on 7th August 35 if his reply is not received before that date. Subs

2/8/39

20 For Perusal

Genl: Secy 2/8

21 This question was discussed at the monthly meeting on Monday last — The Resdr was instructed to discuss the matter with the 1st member of Council. Please await further proposals, if any from the Resdr and also reports from the R.C.

2/8

3/8

GENERAL SECTT. 2 AUG. 1939

GEN. & REV. SECTT. 4 AUG. 1939 FOREST BRANCH.

136 ಸಹಕಾರ ಸಂಘ

General and Revenue Secretariat | 65 File No. 40 of 1938. | [App. F. III–2

| Serial No. | |
|---|---|
| 6 | Letter No 1787 dated 11-8-39 from the Registrar of Co. stating that he has been instructed to consult the New Case & the first Member of Council in the matter in the [illegible] |
| | 22) The receipt of the report as a result of the Consultation of the Registrar with the New Case and the First Member of Council will be awaited till the end of this month and a reminder will be issued early next month. Submit |
| | Sd/- 15/8/39 |
| | Sd/- 15/9/39 |
| for B/F 11/9/39 15/9/39 | D.O. Letter No 107 dated 6-9-39 from the Registrar stating that the First Member of Council, whom he Consulted was agreeable to the proposal to extend the period of 66 to the Apex Bank and the receipt is awaited. |
| | 23) The Registrar has not stated whether he has Consulted the Revenue Board also. It seems desirable for the Registrar to Consult the New Case also and obtain his views and forward the case to Govt. Dft Lr for approval or other orders. |
| | Sd/- 11/9/39 |
| | 24) Issue. Sd/- Illegible |
| | Sd/- 14/9 |

Issued—No. A.E 1004 Dt. 14.9.39 To. The Registrar of

Govt A/B

NOTE—Contn. Sheet.

Amendment of the Cd Act re attachment of Crops for amounts due to Bank

971 / 1395

| 64 File No. 120 of 1938 | General and Revenue Secretariat. |
|---|---|
| | Serial No. |

D.O. Letter No 151 dated 30/9/39 from the Registrar Cd. stating that the Revenue is agreeable to extend the provision of Sec 66 of the Cd. Act to Societies in debt to the Agri Bank

2. The Registrar intimates that the Revenue Board and the First Member of Council whom he consulted are agreeable to the extension of Section 66 of the Cd. Act to the Societies in debt to the Agri Bank

3. It is submitted that Section 66 of the Act allows the distraint and sale of the produce of the mortgaged lands including the standing crops thereon. for the amount due to a L.M. Bank The extension of this Section will mean the amendment of the Cd. Act by the addition of a suitable amendment. The Registrar has in his M.O. note suggested an amendment to the Act (Para 11 of the Note) which provides the attachment of crops but includes the sale of other properties of the person absconding when the decree is passed. The Registrar now reports that the Revenue Board and the First Member of Council are agreeable even in respect of the attachment of standing crops (which is contained in Section 66) Submitted for orders

4/10/39 27 Genl Secy

5/10/39

GENERAL SECT. 5 OCT. 1939 Y.68

Amendment of Co-op. Soc. Act re attachment of crops.

1395 / 1857 / 1897

General and Revenue Secretariat. C.S. File No. 40 of 1938 [ F. III-2

| Serial No. | |
|---|---|
| | 2 & A subs. section as the lines indicated in para 11 & the notes, includ power to attach & sell standing crops as well, has to be added under section 43 as 43 C° or D, the other sections remain as they are. I am not sure whether the offices of the Co-operative Dept will have the right to attach & sell the properties & attend to all the necessary formalities in this connection. |
| | (with enclosures) |
| | To be brought up by the |
| | Sd/- |
| | 10.10 |
| | 11/10. |
| 9 | Letter No C. 1563/38-39 dated 27/10/39 from the Registrar furnishing his opinion on the question of recovery of decretal amounts by attachment and sale of properties of the defaulters. |
| 10 | Letter No 5717 dated 9-11-39 from the Registrar stating the proposals to introduce the amendments in the Co-op. Act on the lines of the sections 57 (ff) of the Madras Act and explanation of section 66 of the Co-op. Act as the distinct ones and stating that the amendment required is a matter to be |

OFFICE OF THE SECOND MEMBER BOARD OF REVENUE
9 OCT 1939
No. 3011

NOTE—Contn. Sheet

1395 / 1857 / 1897



Serial No.

at the end of
adding to section 66 of the Act

During the course of discussions on 87 11/39 it was understood that the Registrar had not pressed the idea of introducing the amendment referred to in Para 11 of the Note but was keen on the application of section 66 of the Co. Act to the Apex Banks. and suggested the addition of a Note at the end of section 66. to extend its provision to the Apex Banks also.

A study of section 66 (1) of the Act which is solely enacted for the L.M. Banks, will disclose that, if any instalment payable under a mortgage deed or any part thereof has remained unpaid for more than one month from the date it fell due, the Bank may apply for the recovery of such instalment or part thereof by distraint or sale and that the Registrar may take such action as is necessary to distrain and sell the produce provided that no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due. Thus the amount to be recovered is limited to one instalment or part thereof and the period before which the distraint & sale could be obtained is fixed at twelve months and not more.

Serial No.

The question now is how far this section may be applied to the dues of the Apex Bank. The dues to the Apex Bank are all frozen and due for a very long time. The debtors having failed to pay the instalments in time are further bound to pay the entire amount under the terms of the bond which they cannot pay now. If section 66 is to be applied to the Apex Bank action has to be taken to recover only the latest instalment due (within twelve months from the due date) and not the previous ones which are barred by time in so far as this section is concerned. The Registrar has not stated anything as to how he would utilise this section (which is applicable to instalments due for 12 years or less) for recovery of the amounts which are overdue for 4 years. If the Registrar states that he would apply this section only to the latest instalment the question arises about the recovery of the earlier instalments and which are left out and also whether action would be in accordance with the terms of the bonds. Even the Committee on Cooperation have simply come to that conclusion without arguing

Page 123

NOTE—Contn. Sheet

1395 ∫ 1857 ∫ 1897

6/ File No. 40 of 19 38 | General and Revenue Secretariat.

Serial No.

in detail
the advisability or the necessity of adopting the general
this summary however which was meant
for a particular type of instalment. It is
also not clear as to whether the recovery of
a particular instalment by distraint will
help the recovery of the frozen debts ~~having~~ over due
for years. It is therefore for consideration
whether, unless the Bank or the Registrar
make ~~it quite~~ these points quite clear
it would be desirable to hasten the introduction
of the amendment proposed by the Registrar.

Subd for orders
17/12/37

The Rev: commissr
is agreeable to the proposed
amendment except the attach-
ment of standing crops.

The proposed amendment to
section 66 of the Co: Societys Act,
it may be suitably worded
to include all the outstanding
dues by the party (debts to the
Societies & Apex Banks).

Genl: Secy
29/12/37

4121

C. W. [illegible]
why is there delay [illegible]
there [illegible]
in working up

30/12

30/12

Appendix F G—1]

SUBJECT .....

.....

.....

*Diary No. of letter replied to* .....

General and Revenue Secretariat

( )

*the* *193* .

Date of issue 15.11.38

Signed by .....

List of enclosures.....

Copied by .....

Examined by.....

Section 65

File No. 40-38

Serial No. 1

No. 104600

To The Revenue Commr

Sir

I am directed to invite your kind refn to G.O.Ms.D 1909-39/ Bs. 11-36-297 dated 19-9-38 wherein it has been stated that the recommendations of the Committee on Cooperation in respect of the matter of execution of decrees, ~~which are pending in the Secretariat~~ will be considered separately and to request you to furnish your remarks on the said recommendations.

I have etc

for

12.11.38

Secy. to Govt

11.11.38

WD 0278—GPB—30,000—4-3-38

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. D 4400 / G. Co - 38 - 1 *Dated, Bangalore,* 14th November 1938.

From

*The Secretary to the Government of His Highness the Maharaja of Mysore,*
*Local Self-Government Department.*

To

The Revenue Commissioner in Mysore,
Bangalore.

Sir,

I am directed to invite your kind reference to Government Order No.D.1909-79/C.S.11-36-297 dated 19th September 1938 wherein it has been stated that the recommendations of the committee on Co-operation in Mysore, in the matter of execution of decrees will be considered separately and to request you to furnish your remarks on the said recommendations.

I have the honour to be,
Sir,
Your most obedient servant,

TG. 11-38.

Secretary to Government,
Local Self-Government Department.

bks)2.

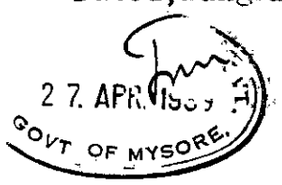
CS 40-38-2

Office of the Revenue Commissioner in Mysore

Dated, Bangalore 26th April 1939.

27 APR 1939

No.1563/38-39.



From

S.Abdul Wajid.Esq.B.A.,

Revenue Commissioner in Mysore.

To

The Secretary to the Government of
His Highness the Maharaja of Mysore,
Local Self Government Department.

---

Amending Sec.43 (A) (4) of the Cooperative Societies Act so as to provide for attachment of defaulters properties before sale.

---

Sir,

Adverting to Government Order No.D.A.909/79/C.S.11-36-297 dated 19th September 1938 and with reference to your letter No.D4400/C.S. 40-38-1 dated 15th November 1938, calling for my opinion on the recommendations of the Cooperative Committee viz. that section 43 A. (4) of the Cooperative Societies Act should be amended so as to prevent alienation of properties of defaulters before sale, that Land Revenue Code should be amended so as to provide for the attachment of immovable properties to be proceeded against for realisation of Societies due and that a provision on the lines of Section 56 A of the Madras Act, may be added in the Mysore Copperative Societies Act, I have the honour to state that I am agreeable to the amendment of Sub Section (4) of Section 43 A of the Cooperative Societies Act so as to invest the officers of the Cooperative Department with powers to order attachment of property during the interval between the date of the decree passed by the Cooperative Department and the actual initiation of the execution proceedings by the Revenue Department.

2. As regards the amendment of the Land Revenue Code, I agree to the Code being amended as suggested by the Committee. I may suggest that action may be taken in consultation with the Law Department, to add a clause at the end of Section 156 of the Land Revenue Code as follows:-

"In the case of (d) above, the Amildar or the Deputy Amildar shall have power to give effect to such conditional attachement as might be ordered by the Registrar of Cooperative Societies or an Assistant Registrar under Section 43 (A) (3) of Cooperative Societies Act.

3. As regards the addition of a Section in the Mysore Cooperative Societies Act on the lines of Section 57 A of the Madras Act, I may mention that Section 57 A enables the CooperativeDepartment to attach crops and destrain moveables and sell them. The Section allows the Cooperative Department to sell crops and moveables even without attachment. I invite kind reference to the opinion expressed by my predecessor (Mr.K.V.Anantaraman) in this Office letter No.Dl.Dis.571 38-39 dated 11th October 1938 in connection with the proposal made by the Cooperative Committee and the Registrar of Cooperative Societies to amend Section 66 of the Mysore Cooperative Act so as to extend its provisions, which are at present applicable to Land Mortgage Banks only, to other Cooperative Societies also. He stated therein that the power of attaching crops is an extraordinary power which is liable to be abused and it may not therefore be given to the Cooperative Department and Government agreed with him(vide Local Self Government Secretary 's letter No.D.3864/C.S.-11-36-30 dated 2nd November 1938). Further, as per Section 144 Land Revenue Code, the land revenue of a year shall be recoverable in preference to all other claims from the crops standing on the land in respect of which the revenue is due. By investing the Cooperative Department with powers to attach and sell standing crops the priority which the land revenue dues enjoy will be taken away in favour of Cooperative Society dues which is not desirable.

In these circumstances, I am not in favour of investing the Co-operative Department with the power to sell standing crops whether

with or without attachment.

I have the honour to be,

Sir,

Your most obedient servant,

Revenue Commissioner.

Appendix F G—1]

SUBJECT.....

.....

.....

Section 65

File No. 40-35

Serial No. 4

*Diary No. of letter replied to* .....

No. 8572

To The Registrar C.S.

Sir

General and Revenue Secretariat

( )

*the* *193* .

Date of issue 18.7.39

Signed by .....

Adverting to your M.O. Memo No 13936 dated 25/7/39 re the sale in execution of a decree in the Nizam C.S. Act of a tenure / under the same heirs or Section 57A of the Madras Act. I am directed to enquire whether the sale and attachment of the property ordered by the Registrar will be effected by Bailiff of the Court and whether this involves any additional staff or expenditure

I have the

List of enclosures.....

Copied by.....

Examined by.....

No. D 543 C.S. 40-38-3

Two 16
2

The Revenue Court 18.7.39

Sir

With reference to your letter No. 1563/38-39 dated 27-6-39 re the attachment and sale of the property for the recovery of the amount due to a Cooperative Society, I am directed to forward herewith for favour of remarks at an early date a copy of the H.O. Note No. 3936 dated 25.7.39 from the Registrar Coop Societies in the matter

Please Specify H.O. Note

Yours etc

for Secy

Secy

**GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE**

**General and Revenue Secretariat**

*Dated, Bangalore,* 18th July 1939.

No. A 572/Ed. 40-38-4

**From**

*The General Secretary to the Government of His Highness the Maharaja of Mysore.*

**To**

The Registrar of Co-operative Societies in Mysore,
Bangalore.

Sir,

Adverting to your unofficial Note No.13936 dated 25th May 1939 regarding the introduction of a section in the Mysore Co-operative Societies Act on the same lines as Section 57A of the Madras Act, I am directed to enquire whether the sale and attachment of the property ordered by the Registrar will be effected by Departmental Officers and if so, whether this involves any additional staff or expenditure.

I have the honor to be,
Sir,
Your most obedient servant,

for General Secretary to Government.

SR/2

**GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE**

**General and Revenue Secretariat**

*Dated, Bangalore,* ~~18th July 1939.~~ 19/

No. D 573/G1.40-38-3
Gen I

**From**

*The General Secretary to the Government of His Highness the Maharaja of Mysore.*

**To**

The Revenue Commissioner in Mysore,
Bangalore.

Sir,

Adverting to your letter No.1563/38-39 dated 27th April 1939 ~~xxxxxx~~ regarding the attachment and sale of the property for the recovery of the amounts due to a co-operative Society, I am directed to forward herewith for favour of remarks at a very early date a copy of the unofficial note No.13936 dated 25th May 1939 from the Registrar of Co-operative Societies in the matter.

I have the honor to be,
Sir,
Your most obedient servant,

for General Secretary to Government.

SR/2/1

CD 40-38-V-

GOVERNMENT OF MYSORE

No. 1125 C S.

DEPARTMENT OF CO-OPERATION

Telegraphic Address
"CO-OPERT"
Bangalore.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE,

Dated Bangalore, 27 July 1939.

136

27 JULY 1939 AGRI. & FOREST BRAN

FROM

M. ABDUL HUKH, ESQ., B.A.,
*Registrar of Co-operative Societies in Mysore,*
BANGALORE.

To

GENERAL S. 27 JULY 1939

The Secretary to Governement,
General Department,
Bangalore.

Sir,

With reference to your letter No.D.592/C.S. 40-384 dated 18th July 1939 enquiring whether the sale and attachment of the property ordered by the Registrar will be effected by the Departmental officers and if so whetner this involves any additional staff or expenditure, I have the honour to state that the attachement of the property will be ordered by the Registrar and the sale if any will be held by the officers of the Department under his directions. As such the proposal does not involve additional staff or expenditure.

I have the honour to be,
Sir,
Your most obedient servant,

Registrar.

GOVERNMENT OF MYSORE

Ag 40-38-6

1787 C. S.

Telegraphic Address:
"CO-OPERT"
Bangalore.

# DEPARTMENT OF CO-OPERATION

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE,

*Dated Bangalore,* 11th August *1939.*

488

GEN. & REV. SECT. 12 AUG. 1939 AGRI. & FOREST BRANCH BANGALORE.

GENERAL SECRETARY 12 AUG. 1939

FROM

M. ABDUL HUKH, ESQ., B.A.,
*Registrar of Co-operative Societies in Mysore.*

To

C. Appaji Gowda, Esq., B.A. (Hons),
Secretary to the Government of Mysore,
General Department, Bangalore.

Sir,

I have the honour to forward herewith for your information a copy of my letter No. 1786 /C.S. dated 11th August 1939 addressed to the Chief Secretary to the Government of Mysore re: Subject No.60 in the List of Subjects for discussion at the Officers' Meeting to be held on 14th August 1939.

I have the honour to be,
Sir,
Your most obedient servant,

Registrar.

L.S.11/8.

GOVERNMENT OF MYSORE

No. 1786 C S.

DEPARTMENT OF CO-OPERATION

Telegraphic Address
"CO-OPERT"
Bangalore.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE,

*Dated Bangalore,* 11 August *1939.*

FROM

M. ABDUL HUKH, ESQ., B.A.,
*Registrar of Co-operative Societies in Mysore,*
*BANGALORE.*

To

Rajasevaprasakta
B.T.Kesaviengar,Esq., B.A.,
Chief Secretary to the Government
of Mysore, Bangalore.

Sir,

With reference to Official Memorandum No.R.765-804/R.M.74-38- dated 29th July 1939 forwarding a list of subjects to be discussed at the meeting of the Officers arranged to be held on 14th August 1939, I have the honour to state that I had an opportunity of discussing Subject No.60 viz.,"extension of the provisions of Section 66 of the Mysore Co-operative Societies' Act to the recovery of - amounts due to societies indebted to the Apex Bank,Ltd., Bangalore with the Dewan and the Second Member of Council on 31st July 1939 and that I have been instructed to consult the Revenue Commissione in Mysore and the First Member of Council in the matter in the fi instance. I therefore request that this subject may be removed fi the list of subjects for discussion.

I have the honour to be,
Sir,
Your most obedient servant,

Sd.- M.Abdul Hukh,
Registrar.

L.S.11/8.

***********

" Copy "

Abdul Hukh

Registrar.

Appendix F G—1]

SUBJECT.....

.....

.....

Section 65

Urgent

File No. 40-38

Serial No.

D.O. No. AF 727

*Diary No. of letter replied to*.....

To

Dear Sir

Advertting to the Correspondence ending with your letter No 1787 dated 11-8-39 re the extension of the provisions of Section 66 of the Income-tax Act to other Districts, I am desired to request you to let us have at your earliest convenience the result of your discussion with the first member of the Commission on the question at a very early date

Yours sincerely

25/8

General and Revenue Secretariat

( )

*the* 193 .

Date of issue 30/8/39

Signed by for H. N. Mrs.

Dft reminder to be issued 28/9

Issued 28/9

Remind Re 25/10

Separating

To

M. Abdul Hakim Esq Bar-at-Law

Registrar of Co.

List of enclosures.....

Copied by.....

Examined by.....

40-38-7

GOVERNMENT OF MYSORE.

GEN. & REV. SECTT. * 7 SEP 1939 * SECRETARIAT BRANCH.

M. ABDUL HUKH, Esq., B.A.

DEPARTMENT OF CO-OPERATION.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE.

D. O. No. 107

*Dated Bangalore,* 6th September 1939.

Dear Mr. Appaji Gowda,

With reference to your D.O.No.A.F.727/C.S.40-38 dated 30th August 1939 re: the extension of the provisions of Section 66 of the Mysore Co-operative Societies' Act to the societies indebted to the Apex Bank, I write to inform you that I discussed this subject with the First Member of Council yesterday and he is agreeable to the extension of the provisions to the Apex Bank and societies indebted to it in the special circumstances of the case. I request that the connected file may be submitted to him.

Yours sincerely,

Abdul Hukh

J. Appaji Gowda, Esq., B.A., (Hons),
Secretary to the Government of Mysore,
General Department, Bangalore.

Appendix F G—1]

SUBJECT.....

.....

.....

Section 65

File No. 40-38

Serial No.

Diary No. of letter replied to.....

Revenue

D.O. No. A 71004

To The Registrar g/cs.

Dear Sir

with reference

~~I am reply~~ to your D.O. letter No

107 ~~dated~~ of the 6th instant re

the extension of the premium of Lea

66 of the B.S. Act to the Hill Boun

etc. I am directed to request you

to consult the Revenue branch

in the matter and ~~forward~~ his

opinion ~~thereon~~ at a very ear

date

Yours sincerely

[illegible]

11/9

General and Revenue Secretariat

( )

the 193

Date of issue 14/9/35

Signed by [illegible]

List of enclosures.....

Copied by.....

Examined by.....

WD 0563—GPB—30,000—6-1-39

D. O. No. A 7 4004
CS 40-38

GENERAL AND REVENUE SECRETARIAT,

*Bangalore, Dated,* ~~13th~~ 14th September 1939.

URGENT

Dear Sir,

With reference to your D.O.letter No.107 of the 6th instant, regarding the extension of the provision of Section 66 of the Co-operative Societies' Act to the Apex Bank etc., I am desired to request you to consult the Revenue Commissioner in the matter and forward his opinion at a very early date.

Yours sincerely,

M. Abdul Hukh, Esq., B.A.,
Registrar of Co-operative Societies in Mysore,
Bangalore.

C.S. 40-38-8.

GOVERNMENT OF MYSORE.

M. ABDUL HUKH, Esq., B.A.

DEPARTMENT OF CO-OPERATION.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE.

D. O. No. 151 for 2/10 30 Dated Bangalore, 29th September 193 9

1395

Dear Sir,

With reference to your D.O.No.A.F.1004/C.S. 40-38 dated 14th September 1939 in the matter of consulting the Revenue Commissioner in Mysore regarding the extension of the provisions of Section 66 of the Mysore Co-operative Societies' Act to the Apex Bank etc., I write to inform you that I had a discussion with the Revenue Commissioner in Mysore on the subject and that he is agreeable to the proposal to extend the provisions of the said Section to the Apex Bank and the societies indebted to it.

Yours Sincerely,

Abdul Hukh

J. Appaji Gowda, Esq., B.A. (Hons)
General Secretary to Government, Bangalore.

No. C 1483
38-39

OFFICE OF THE REVENUE COMMISSIONER
IN MYSORE.

*Dated Bangalore,*.....27th October.....*1939*.

1465

GEN. & REV. SECTT.
7 NOV. 1939
AGRI. & FOREST BRANCH.

FROM

Rookn-ul-mulk
S. ABDUL WAJID, ESQ., B.A.,
*Revenue Commissioner in Mysore.*

To

The *Secretary to the Government of*
*His Highness the Maharaja of Mysore,*
General Department. *Bangalore.*

GENERAL SECRETARY
7 NOV. 1939

CS

With reference to your letter No.D.593/C.S.40-38-3 dated 18th July 1939, forwarding for my remarks an unofficial note given by the Registrar of Cooperative Societies in the matter of empowering the Cooperative Department to recover decretal dues by attachment and sale properties of the defaulters, I have the honour to state that I have already expressed by opinion in my letter No.C. 1563/38-39 dated 27th April 1939, that a provision similar to Section 57 A of the Madras Cooperative Societies Act may be incorporated in the Mysore Cooperative Societies Act investing the Cooperative Department with powers to recover decretal dues by attachment and sale of properties except standing crops.

2. So far as this Department is concerned, all that is required is that the power granted to the Cooperative Department should not affect the cause of the recovery of land revenue arrears due in respect of the properties sold under Order XXI Rule 54 (2) C.P.C. notice of attachment in regard to the sale of a land held by a Civil Court should be given to the Revenue authorities and the sale proclamation should be fixed in the Deputy Commissioner's office. If this is not done, the Civil Court sale does not vitiate a subsequent revenue sale, Vide Art. 242 Revenue Manual I 1921 Edn.

P.T.O

A similar safeguard may be provided for in the case of attachment and sale of property by the Cooperative Department.

I have the honour to be,

Sir,

Your most obedient servant,

Revenue Commissioner.

CS 40 - 38 - 10.

No. 1697 C S. 917 Geer/.

GOVERNMENT OF MYSORE

DEPARTMENT OF CO-OPERATION

Telegraphic Address
"CO-OPERT"
Bangalore.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES
IN MYSORE,

Dated Bangalore, 9th November 1939

1697

GEN. & REV. SECTT.
9 NOV. 1939
AGRI. & FOREST BRANCH.

FROM

M. ABDUL HUKH, ESQ., B.A.,
*Registrar of Co-operative Societies in Mysore,*
*BANGALORE.*

9/11

To

J.Appaji Gowda,Esq.,B.A.,(Hons),
Secretary to the Government of Mysore,
General Department, Bangalore.

Sir,

With reference to the discussions I had with you yesterday in the matter of incorporating a Section in the Mysore Co-operative Societies' Act similar to Section 57 A.of the Madras Co-operative Societies' Act and extending the concession of distraint of crops standing on defaulter's properties mortgaged now given to the Land Mortgage Bank and Land Mortgage Societies under Section 66 of the Mysore Co-operative Societies' Act, to the Apex Bank and Societies indebted to it, I have the honour to state that the proposals are two distinct ones as detailed below:-

I. Introduction of a Section in the Mysore Co-operative Societies Act similar to Section 57-A. of the Madras Co-operative Societies Act.

The Chandrasekhara Iyer Committee on Co-operation in Mysore observ in Chapter X of their Report as follows:-

"In Madras the Registrar has since been empowered, without prejudice to any other mode of recovery provided, to recover all sums due under a decision, award or order or under a Civil Court decree, by the attachment and sale of the property of the person against whom it has been passed: vide new Section 57-A. The addition of a similar provision to the Mysore Co-operative Societies' Regulation will be most useful,and tend to make execution more - effective in many cases. For one thing, it will enable the Department to attach crops and distrain movables, a power without the - effective use of which the collection of Co-operative Societies' dues

Page 179

P.T.O.

dues is often most difficult."

Government in their Order No.D.1909-79/C.S.11-36-297 dated 10th September 1938 (copy enclosed for ready reference) were pleased to direct that this recommendation would be considered separately. In my Un-Official Note No.13936/C.S.dated 25th May 1939, I have suggested the draft amendment which I reproduce below:-

"The Registrar or any person subordinate to him empowered by the Registrar in this behalf may, subject to such rules as may be prescribed by Government and without prejudice to any other mode of recovery provided by or under this Act, recover -

(a) any amount due under a decree or order of a Civil Court, a decision of the Registrar or an award of the Arbitrator, or an order of the Registrar, obtained by a registered society including a financing Bank or Liquidator; or

(b) any sum awarded by way of costs under Section 37 to a registered society including a financing Bank or to the Government; or

(c) any sum ordered under Section 42 to be recovered as a contribution to the assets of a society or as costs of liquidation; or

(d) any sum ordered under Section 42-A. to be repaid to a society or recovered as a contribution to its assets,

together with the interest, if any, due on such amount or sum and the costs of process by the attachment and sale of the property except - standing crops - of the person against whom such decree, decision, award or order has been passed."

In reply to a question whether the incorporation of this Section would mean extra cost, I have replied that it will not, as the attachment will be ordered by me and the sale if any will be held by the Officers of this Department. A perusal of the amendment proposed will make this clear. This additional Section may for convenience be numbered as 43-C.(3).

II. Extension of the facility of distraint of crops under Section 66 of the Mysore Co-operative Societies Act to the case of loans due to the Apex Bank and the societies indebted to it.

Proposals in this respect were submitted with this office letter No.6723/C.S.dated 16th February 1937 but Government were, in their -

their Order No.D.6850/C.S.11-36-314 dated 20th January 1939, pleased to direct that they could not grant this concession. On a further representation, Government desired that I should discuss the question again with the First Member and Revenue Commissioner(D.O.No. A.F.727/C.S.40-38-4 dated 30th August 1939) and accordingly, I discussed the matter with them and reported the same to Government. The amendment required to be made is the addition of a Note at the end of Section 66.

"Note:- The provisions of this Section shall also apply to the recovery of any instalment payable under a mortgage executed in favour of the Mysore Provincial Co-operative Apex Bank,Ltd., or a society indebted to it, such mortgage loan having been advanced out of funds borrowed from the said Bank, in which case, the term Bank in the Section shall mean and include the Apex Bank and any society indebted to it."

I have the honour to be,
Sir,
Your most obedient servant,

Registrar.

L.S.8/11.

# GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

## GENERAL AND REVENUE DEPARTMENTS.

**G. O. No. D. 1909-79—C. S. 11-36-297, dated 19th September 1938.**

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**Report of the Committee on Co-operation in Mysore.**

Passes orders on the recommendations contained in Chapter X of the

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READ—

The recommendations of the Committee on Co-operation in Mysore in Chapter X of their Report in the matter of corrective functions of Co-operative Societies.

(Printed as annexure.)

2. Letter No. 7895, dated the 29th March 1937, from the Registrar of Co-operative Societies in Mysore, forwarding his opinions on the several recommendations made.

ORDER NO. D. 1909-79—C. S. 11-36-297, DATED BANGALORE, THE 19TH SEPTEMBER 1938.

In Chapter X of the Report entitled "corrective functions," the Committee refer to certain aspects of the policy of "consolidation and rectification" which has been adopted since 1929 in almost all parts of India and make recommendations on questions connected with dissolution of societies, co-operative litigation, the execution of decrees and the application of the law of limitation to co-operative disputes.

### Dissolution.

The Committee point out that the power of compulsory liquidation is not preventive but punitive and that its employment should, as far as possible, be postponed until milder remedies have been tried and found ineffective. They accordingly recommend that, as in Burma and Bombay, an intermediate stage of "winding up" should be introduced. If, during this stage, the Registrar thinks that the society should continue to exist, he may cancel the order for winding up; otherwise he must, after considering the final report of the Liquidator, order the registration to be cancelled.

Government observe that the Co-operative Department in Mysore has, as a rule, proceeded with caution in the matter of cancelling the registration of societies and that, in practice, a process of winding up is adopted as a preliminary step. It is only when a society is found to be past all hope of rehabilitation that its registration is cancelled. Government, however, agree that the procedure indicated should be placed on a legal basis and will take action to amend Sections 39 and 40 of the Act on the lines suggested.

The proposal that a rule may be prescribed requiring that, before cancelling registration, two months' clear notice should be given to a society specifying the grounds of the proposed order is also accepted. It is understood that in practice such notice is invariably given.

Agreeing with the Committee, Government have already decided to amend the Act so as to provide for the Liquidators' orders in regard to recovery of monies being executed by the Revenue Department in the same manner as arrears of land revenue. (*Vide* Government Order No. D. 161-162—C. S. 11-36-274, dated 8th July 1938.)

The Committee have recommended that the law as contained in Section 42 of the Act requires to be amended in the following respects :—

"(*a*) The Registrar should be empowered to give directions, from time to time, to the Liquidator after his appointment.

(*b*) Sub-section 2 (b) provides only for contributions by "members and past members" and not also (as is necessary and as has been done in the Bombay and Madras Acts) for contributions by "the estates or nominees, heirs or legal representatives of deceased members" and also by "any officers or former officers."

(*c*) The period for which the estate of a deceased member is liable should be extended from one to two years, as in the case of past members.

(*d*) The Liquidator has at present no power to refer any matters in dispute to arbitration. He should be given such power subject to the Registrar's sanction in each case.

(*e*) The necessity for passing both a preliminary and a final decree in the case of mortgage loans should be done away with, and the decree given in the first instance treated as the final "executable decree."

(*f*) The Liquidator should have power to call general meetings from time to time, instead of only at the conclusion of the liquidation.

Section 42-B should be extended to cover cases of apprehended disposal or removal of property after the passing of the order and before it is sought to be put in execution."

Government agree that these changes in the law should be carried out if liquidation work is to be speeded up and rendered effective.

### Co-operative Litigation.

The Committee recommend that where the Directors of the Society fail to file a dispute against a defaulter, within a specified time, the Inspector or some other person nominated by the Registrar may be enabled to file it. As stated in the Report, it often happens that owing to the defaulter being either the Secretary or some other member of the Committee, or an influential person outside the Committee, the Committee are averse to filing a dispute. In such cases, the Registrar should have power to direct the Committee to file a dispute, and in case of failure to do so, to recognise the filing of the suit by the Inspector or any other person nominated by him. This would involve a slight modification of Section 43-A.

The Government have considered the question of enhancing the fee paid to Arbitrators from 4 annas to 8 annas per suit and have decided that the existing rate might be continued for the present.

### Law of Limitation.

The Committee have dealt at length with the difficult question whether disputes under the Co-operative Societies Act are governed by the provisions of the law of Limitation applicable to suits and have made important recommendations which have been dealt with separately, in consultation with the Judges of the High Court. Action is being taken to amend the law so as to give effect to the recommendations of the Committee. (*Vide* Government Order No. D. 3633-43—C. S. 11-36-204, dated 13th November 1937.)

### Execution.

The Committee have referred to the difficulty experienced by creditor societies and other purchasers in obtaining possession of immovable property sold in execution by revenue authorities and the inadequacy of the remedy provided for the purpose in Section 187-A of the Land Revenue Code. The procedure laid down in this Section applies equally to sale of lands for certain Government and other dues also. The Revenue Commissioner has, at the instance of Government, issued circular instructions to Revenue Officers to the effect that attempts should be made by them to put the purchaser society in possession of the properties and that the parties may be referred to Civil Courts only in cases where there is actual obstruction either by the person in possession of properties or others.

The following are among the other suggestions made by the Committee for amending the law relating to execution of decrees in Co-operative disputes:—

"Sub-section (4) of Section 43-A empowers the Registrar to direct a conditional attachment of property prior to decision. Such a power may advantageously be extended to cases of apprehended alienations by defaulters in the interval between the passing of the decision and the actual initiation of execution proceedings.

The Land Revenue Code should be amended so as to provide for the attachment of immovable property sought to be proceeded against for the realization of societies' dues.

The addition to the Mysore Co-operative Societies Act of a provision on the lines of Section 57-A of the Madras Act, empowering the Registrar, without prejudice to any other mode of recovery provided, to recover all sums due under decision, award or order or under a Civil Court decree, by the attachment and sale of the property of the person

against whom it has been passed, will be most useful, and tend to make execution more effective in many cases."

These recommendations will be considered separately.

The observations and recommendations of the Committee reproduced below are noted with approval:—

"With a view to prevent abuse or misapplication of the discretion given to the Liquidator to determine the contributions to be made by members, it is necessary to lay down by rule that any deficit should, after the full payment of shares, be recoverable by a series of *per capita* levies upon the members to the full extent of their property. This will equalize the individual burden at each levy, and so leave less discretion to the Liquidator.

In cases where the managing committee of a society takes no action to put the decision or award in execution, or delays action owing to reluctance to proceed against an influential member or for other reason, the Registrar should take the necessary steps on his own initiative.

Better results in the matter of the execution of co-operative decisions through the Revenue Department can only be attained by the exercise of adequate control over the work of the agency (ordinary and special) entrusted with execution work, and by close co-operation between that agency and the committees of the societies which hold the decrees for execution.

A wholesale transfer of the work to the Co-operative Department is not necessary or practicable at the present stage, in view of the large addition to staff and heavy charges of execution that would be entailed. The general transfer of execution work to the Civil Courts is not likely to result in greater expedition or in the reduction of cost to parties. Execution may ordinarily remain with the Revenue Department, but the higher Revenue Officers should interest themselves much more closely and actively in the progress and speeding up of the work.

The Secretary of the society concerned should take the initiative in applying to the Amildar for execution, with all necessary particulars as regards the defaulter and his assets.

It is important that societies should have adequate contact with the proceedings in execution, and that they should invariably be consulted before action affecting their interests is taken, such as the grant of time to the debtor or the cancellation of a sale. The special Revenue Inspectors are expected to give due intimation to societies before taking action. The Secretary of the society should also keep in touch with the Revenue Inspector during the course of execution proceedings.

The purchase of lands by co-operative societies in execution should only be made sparingly and as a last resort. Where, owing to combination or other reason, proper bids cannot be had, societies may have to make their own bids; but they should not be compelled to offer more than what they themselves consider reasonable.

When a judgment-debtor voluntarily deposits the decreed amount subsequent to the initiation of execution proceedings, he need not be required to pay the usual percentage contribution towards costs, in cases where execution has not actually been set on foot and no cost has therefore been incurred."

The Registrar is requested to submit, for the consideration of Government, drafts of the amendments to be made in the Co-operative Societies Act and of the rules to be issued under it in order to give effect to the decisions contained in this order.

P. H. KRISHNA RAO,
*Secretary to Government,*
*Local Self-Government Department.*

To—The Registrar of Co-operative Societies in Mysore.
The Revenue Commissioner in Mysore.
The Deputy Commissioners of Districts.
The Registrar, High Court of Mysore, with covering letter.
The other Heads of Departments.

Exd.—C. K.

No. D. 1909-79—C. S. 11-36-297, DATED 19TH SEPTEMBER 1938.

## ANNEXURE.

Winding up prior to cancellation of registration.

The introduction of an intermediate stage of "winding up" (as in Burma and Bombay), prior to actual cancellation of registration, will remove certain anomalies, allow of a society being revived after its affairs are put in order, and obviate resort to compulsory liquidation.

Compulsory liquidation.

The power of compulsory liquidation is not preventive, but punitive, and its employment should be postponed, as far as possible, till milder remedies have been tried and found ineffective. It should only be resorted to when all methods of recovering arrears—persuasive or coercive—are exhausted, and most of the outstanding debts or either bad or irrecoverable.

Notice prior to cancellation or winding up.

The Act does not require notice to be given before registration is cancelled or winding up is ordered. A rule may be prescribed requiring two months' clear notice to be given to the society specifying the ground of the proposed order.

Enforcement of orders of liquidator.

The orders of the liquidator in regard to the collection and distribution of assets have at present to be enforced by application to the Civil Court, with its attendant delays and difficulties. Provision may be made (as in Bombay and Madras) for the summary recovery of members' debts under the liquidator's orders through execution by the Revenue Department in the same manner as arrears of land revenue.

Contributions in case of unlimited liability.

With a view to prevent abuse or misapplication of the discretion given to the liquidator to determine the contributions to be made by members, it is necessary to lay down by rule that any deficit should, after the full payment of shares, be recoverable by a series of *per capita* levies upon the members to the full extent of their property. This will equalize the individual burden at each levy, and so leave less discretion to the liquidator.

Agency for liquidation.

The services of suitable non-official gentlemen may be secured on payment of a commission of 5 per cent on realisations; otherwise, one of the Registrar's staff may be utilized.

Amendment of provisions regarding liquidation.

The law as contained in Section 42 of the Act requires to be amended in certain respects.

Section 42-B should be extended to cover cases of apprehended disposal or removal of property after passing of the order and before it is sought to be put in execution.

Reference of dispute on default of action by Committee.

To provide for cases in which action to recover debts due is purposely delayed or not taken because the defaulter happens to be the Secretary himself or one of the other committee members or other influential person, the Registrar should have power to require the committee to make a reference within a specified time, and, on its failure to do so, to direct the Inspector or some other person nominated by him to make the reference.

Honorary Assistant Registrars.

The disposal of disputes would be materially helped if qualified persons were appointed as Honorary Assistant Registrars, at least one for each district and each important headquarter town, where such persons are available. Honorary Assistant Registrars may be given a moderate carriage allowance.

Fee for Arbitrators.

A panel of Arbitrators should be maintained for each district. Arbitrators should be paid, where necessary, a small fee for meeting incidental expenses, which need not exceed annas eight or rupee one per case. In exceptional circumstances, a higher fee may be specially allowed (including actual travelling expenses, if any).

Reference to Civil Courts.

The Registrar's discretion to refer a dispute to a Civil Court should be freely used where both parties desire it, or where the case involves complicated issues either of law or of adjustment of accounts on which the decision of a judicial tribunal would be desirable.

No. D. 1909-79—C. S. 11-36-297, DATED 19TH SEPTEMBER 1938.

Limitation in relation to Co-operative disputes.

On the difficult question whether disputes under the Co-operative Societies Act are or are not governed by the articles in the Limitation Act applicable to suits, the Committee's conclusion is that,—subject to any special provisions in the Co-operative Societies Act, like Sections 23 and 24,— the articles as to suits in general contained in the Limitation Act do apply to disputes.

Period to be extended.

In view of the special circumstances applicable, co-operative societies as such should have a longer period of limitation than that ordinarily available, within which to bring up disputes under the Co-operative Societies Act. A general provision doubling the usual period of limitation for suits (other than suits on hypothecation or mortgage) when brought by or on behalf of societies under the Co-operative Societies Act seems reasonable and desirable. The benefit of the increased period, when enacted should be given to disputes referred within a specified time after the enactment comes into operation.

The opportunity may also be taken to make it clear that, when a decision of the Registrar or of an arbitrator has to be referred to the Civil Court after the close of infructuous proceedings in the Revenue Department (as in cases coming under section 187-A of the Mysore Land Revenue Code), limitation should only begin to run after the termination of the Revenue proceedings and upon a formal reference by the Registrar to the Civil Court for execution. The starting point should be the date of issue of the sale certificate, and not that of the confirmation of sale.

Power to Registrar to recover dues.

The addition to the Mysore Co-operative Societies Act of a provision on the lines of section 57-A of the Madras Act empowering the Registrar, without prejudice to any other mode of recovery provided, to recover all sums due under a decision, award or order or under a Civil Court decree, by the attachment and sale of the property of the person against whom it has been passed, will be most useful, and tend to make execution more effective in many cases.

Power to initiate execution in default of action by Committee.

In cases where the managing committee of a society takes no action to put the decision or award in execution, or delays action owing to reluctance to proceed against an influential member or for other reason, the Registrar should take the necessary steps on his own initiative.

Choice of mode of execution.

Section 43-C (i) does not expressly state that the party seeking execution has a choice in the selection of the mode of execution. The point may be made clear.

Execution through Revenue Department.

Better results in the matter of the execution of co-operative decisions through the Revenue Department can only be attained by the exercise of adequate control over the work of the agency (ordinary and special) entrusted with execution work, and by close co-operation between that agency and the committees of the societies which hold the decrees for execution.

Alternatives considered.

A wholesale transfer of the work to the Co-operative Department is not necessary or practicable at the present stage, in view of the large addition to staff and heavy charges of execution that would be entailed. The general transfer of execution work to the Civil Courts is not likely to result in greater expedition or in the reduction of cost to parties. Execution may ordinarily remain with the Revenue Department, but the higher Revenue Officers should interest themselves much more closely and actively in the progress and speeding up of the work.

Special Recovery Staff.

At the same time, the quantity of execution work of all kinds that has to be done seems to justify the immediate employment of a special staff of Revenue Inspectors solely for such work in some, if not all, of the districts. One Special Inspector may be entertained for one or more taluks according to the quantity of the work. It may be eventually necessary to have a specialized agency for each district solely concerned with the recovery of societies' dues and wholly paid, out of the fees levied, and to place it under the charge of a Special Officer of the grade of an Amildar.

No. D. 1909-79—C. S. 11-36-297, DATED 19TH SEPTEMBER 1938.

A scheme for the appointment of Special Recovery Officers, as in Madras and Bombay, may be tried in Mysore, the staff being at first on a temporary basis; if it be found to be self-supporting, as well as permanently useful and effective for its main purpose, the question of its further continuance may be considered in the light of such experience.

Transmission of Decree.

Much avoidable time is now taken up in the transmission of co-operative decrees through the regular channels to the Revenue Inspector. There is no reason why a decision should not be sent direct from the Co-operative Department to the Amildar of the taluk where it is to be executed.

Contact between Society and Revenue Agency.

The Secretary of the Society concerned should take the initiative in applying to the Amildar for execution, with all necessary particulars as regards the defaulter and his assets.

It is important that societies should have adequate contact with the proceedings in execution, and that they should invariably be consulted before action affecting their interests is taken, such as the grant of time to the debtor or the cancellation of a sale. The special Revenue Inspectors are expected to give due intimation to societies before taking action. The Secretary of the society should also keep in touch with the Revenue Inspector during the course of execution proceedings.

Possession of property sold in execution.

The purchaser of property at a revenue sale in execution of a co-operative decree should be placed on the same level as to obtaining possession, as a purchaser of an occupancy or alienated holding under a sale for land revenue arrears. It will be open to any person claiming in good faith to be in possession of the property on his own account or on account of some person other than the judgment-debtor to seek redress from the Civil Courts. An alteration of the law on the above lines is very necessary, and may be effected at an early date.

Purchase by Societies.

The purchase of lands by co-operative societies in execution should only be made sparingly and as a last resort. Where, owing to combination or other reason, proper bids cannot be had, societies may have to make their own bids; but they should not be compelled to offer more than what they themselves consider reasonable.

Attachments after decision.

Sub-section (4) of Section 43-A empowers the Registrar to direct a conditional attachment of property prior to decision. Such a power may advantageously be extended to cases of apprehended alienations by defaulters in the interval between the passing of the decision and the actual initiation of execution proceedings.

The Land Revenue Code should be amended so as to provide for the attachment of immovable property sought to be proceeded against for the realization of societies' dues.

Voluntary payments.

When a judgment-debtor voluntarily deposits the decreed amount subsequent to the initiation of execution proceedings, he need not be required to pay the usual percentage contribution towards costs, in cases where execution has not actually been set on foot and no cost has therefore been incurred.

Attachment of salaries.

Where there are more decrees than one requiring execution against the same official, the head of the office concerned must be required to make rateable distribution of the permissible amount among all the decrees.

Apart from cases where decrees have been obtained, heads of offices may well co-operate in making periodical recoveries from the salaries of employees who have agreed in writing to this mode of discharging loans contracted from societies.

Prosecutions and Suits.

In order to protect office-bearers of societies from unnecessary harassment, the Registrar should be given an opportunity to examine all cases of alleged misconduct on the part of members of managing committees, before criminal prosecutions are launched.

Similarly in cases of civil liability, not falling within the definition of a dispute, it must be made obligatory to serve a notice on the Registrar at least two months before filing a suit against a society or its managing committee, so as to give the Registrar sufficient opportunity to look into the matter and save the society from unnecessary litigation.

WD 564—GPB—795—11-10-38

GJ 40-30-11

No. 9998 C. S.

GOVERNMENT OF MYSORE.

3323

DEPARTMENT OF CO-OPERATION

Telegraphic Address
"CO-OPERT"
Bangalore.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE,

*Dated Bangalore,* 12/15 March 1941

GEN. & REV. SECTT. 14 MAR. 1941 FOREST BRANCH.

FROM

M. ABDUL HUKH, ESQ., B.A.,
*Registrar of Co-operative Societies in Mysore,*
*BANGALORE.*

To

GENERAL SECRETARIAT 14 MAR 1941

J.Appaji Gowda,Esq.,B.A.,(Hons),
General Secretary to the Government
of Mysore, B a n g a l o r e

Sir,

I have the honour to state that the marginally noted Reso

"That as is being done in respect of recovering amounts due to Land Mortgage Co-operative Societies the standing crops of defaulting members be permitted to be attached."

tion was passed at the 27th Mysore Provincial Co-operative Con- ference held at Mysore o October 1940 praying tha the provisions of Sectio of the Mysore Co-operative Societies' Act may be made applicabl respect of defaulters. Government have, in their Order No.D.38 C.S.11-36-307 dated 2nd November 1938 and No.D.6850/C.S. 11-36- dated 19th/20th January 1939, been pleased to direct that the c cession provided under Section 66 of the Mysore Co-operative So ties' Act to the Land Mortgage Bank and Land Mortgage Societies cannot be extended to other co-operative societies. A further reference has been made by me in this respect (vide this office letter No.1787/C.S.dated 11th August 1939 addressed to the Secr tary to Government, General Department) and I request that earl orders of Government may kindly be obtained in the matter.

688/CS. 1939

Subs

The main point re the extension of Sec 66 of the Act to the societies other than Land Mort. Bank was sent to the Govt. This may be kept to join in cents.

I have the honour to be,
Sir,
Your most obedient servant,

Registrar.

L.S.10/3.

19/3/41

Agric Secy)

20/3

GENERAL SECRETARIAT 21 MAR 1941

This file is please return

# GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

## GENERAL AND REVENUE DEPARTMENTS.

**G. O. No. D. 1909-79—C. S. 11-36-297, dated 19th September 1938.**

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**Report of the Committee on Co-operation in Mysore.**

Passes orders on the recommendations contained in Chapter X of the ——

READ—

The recommendations of the Committee on Co-operation in Mysore in Chapter X of their Report in the matter of corrective functions of Co-operative Societies.

(Printed as annexure.)

2. Letter No. 7895, dated the 29th March 1937, from the Registrar of Co-operative Societies in Mysore, forwarding his opinions on the several recommendations made.

ORDER No. D. 1909-79—C. S. 11-36-297, DATED BANGALORE, THE 19TH SEPTEMBER 1938.

In Chapter X of the Report entitled "corrective functions," the Committee refer to certain aspects of the policy of "consolidation and rectification" which has been adopted since 1929 in almost all parts of India and make recommendations on questions connected with dissolution of societies, co-operative litigation, the execution of decrees and the application of the law of limitation to co-operative disputes.

### Dissolution.

The Committee point out that the power of compulsory liquidation is not preventive but punitive and that its employment should, as far as possible, be postponed until milder remedies have been tried and found ineffective. They accordingly recommend that, as in Burma and Bombay, an intermediate stage of "winding up" should be introduced. If, during this stage, the Registrar thinks that the society should continue to exist, he may cancel the order for winding up; otherwise he must, after considering the final report of the Liquidator, order the registration to be cancelled.

Government observe that the Co-operative Department in Mysore has, as a rule, proceeded with caution in the matter of cancelling the registration of societies and that, in practice, a process of winding up is adopted as a preliminary step. It is only when a society is found to be past all hope of rehabilitation that its registration is cancelled. Government, however, agree that the procedure indicated should be placed on a legal basis and will take action to amend Sections 39 and 40 of the Act on the lines suggested.

The proposal that a rule may be prescribed requiring that, before cancelling registration, two months' clear notice should be given to a society specifying the grounds of the proposed order is also accepted. It is understood that in practice such notice is invariably given.

Agreeing with the Committee, Government have already decided to amend the Act so as to provide for the Liquidators' orders in regard to recovery of monies being executed by the Revenue Department in the same manner as arrears of land revenue. (*Vide* Government Order No. D. 161-162—C. S. 11-36-274, dated 8th July 1938.)

The Committee have recommended that the law as contained in Section 42 of the Act requires to be amended in the following respects:—

"(*a*) The Registrar should be empowered to give directions, from time to time, to the Liquidator after his appointment.

(*b*) Sub-section 2 (b) provides only for contributions by "members and past members" and not also (as is necessary and as has been done in the Bombay and Madras Acts) for contributions by "the estates or nominees, heirs or legal representatives of deceased members" and also by "any officers or former officers."

(*c*) The period for which the estate of a deceased member is liable should be extended from one to two years, as in the case of past members.

(*d*) The Liquidator has at present no power to refer any matters in dispute to arbitration. He should be given such power subject to the Registrar's sanction in each case.

(*e*) The necessity for passing both a preliminary and a final decree in the case of mortgage loans should be done away with, and the decree given in the first instance treated as the final "executable decree."

(*f*) The Liquidator should have power to call general meetings from time to time, instead of only at the conclusion of the liquidation.

Section 42-B should be extended to cover cases of apprehended disposal or removal of property after the passing of the order and before it is sought to be put in execution."

Government agree that these changes in the law should be carried out if liquidation work is to be speeded up and rendered effective.

### Co-operative Litigation.

The Committee recommend that where the Directors of the Society fail to file a dispute against a defaulter, within a specified time, the Inspector or some other person nominated by the Registrar may be enabled to file it. As stated in the Report, it often happens that owing to the defaulter being either the Secretary or some other member of the Committee, or an influential person outside the Committee, the Committee are averse to filing a dispute. In such cases, the Registrar should have power to direct the Committee to file a dispute, and in case of failure to do so, to recognise the filing of the suit by the Inspector or any other person nominated by him. This would involve a slight modification of Section 43-A.

The Government have considered the question of enhancing the fee paid to Arbitrators from 4 annas to 8 annas per suit and have decided that the existing rate might be continued for the present.

### Law of Limitation.

The Committee have dealt at length with the difficult question whether disputes under the Co-operative Societies Act are governed by the provisions of the law of Limitation applicable to suits and have made important recommendations which have been dealt with separately, in consultation with the Judges of the High Court. Action is being taken to amend the law so as to give effect to the recommendations of the Committee. (*Vide* Government Order No. D. 3633-43—C. S. 11-36-204, dated 13th November 1937.)

### Execution.

The Committee have referred to the difficulty experienced by creditor societies and other purchasers in obtaining possession of immovable property sold in execution by revenue authorities and the inadequacy of the remedy provided for the purpose in Section 187-A of the Land Revenue Code. The procedure laid down in this Section applies equally to sale of lands for certain Government and other dues also. The Revenue Commissioner has, at the instance of Government, issued circular instructions to Revenue Officers to the effect that attempts should be made by them to put the purchaser society in possession of the properties and that the parties may be referred to Civil Courts only in cases where there is actual obstruction either by the person in possession of properties or others.

The following are among the other suggestions made by the Committee for amending the law relating to execution of decrees in Co-operative disputes:—

"Sub-section (4) of Section 43-A empowers the Registrar to direct a conditional attachment of property prior to decision. Such a power may advantageously be extended to cases of apprehended alienations by defaulters in the interval between the passing of the decision and the actual initiation of execution proceedings.

The Land Revenue Code should be amended so as to provide for the attachment of immovable property sought to be proceeded against for the realization of societies' dues.

The addition to the Mysore Co-operative Societies Act of a provision on the lines of Section 57-A of the Madras Act, empowering the Registrar, without prejudice to any other mode of recovery provided, to recover all sums due under decision, award or order or under a Civil Court decree, by the attachment and sale of the property of the person

against whom it has been passed, will be most useful, and tend to make execution more effective in many cases."

These recommendations will be considered separately.

The observations and recommendations of the Committee reproduced below are noted with approval :—

"With a view to prevent abuse or misapplication of the discretion given to the Liquidator to determine the contributions to be made by members, it is necessary to lay down by rule that any deficit should, after the full payment of shares, be recoverable by a series of *per capita* levies upon the members to the full extent of their property. This will equalize the individual burden at each levy, and so leave less discretion to the Liquidator.

In cases where the managing committee of a society takes no action to put the decision or award in execution, or delays action owing to reluctance to proceed against an influential member or for other reason, the Registrar should take the necessary steps on his own initiative.

Better results in the matter of the execution of co-operative decisions through the Revenue Department can only be attained by the exercise of adequate control over the work of the agency (ordinary and special) entrusted with execution work, and by close co-operation between that agency and the committees of the societies which hold the decrees for execution.

A wholesale transfer of the work to the Co-operative Department is not necessary or practicable at the present stage, in view of the large addition to staff and heavy charges of execution that would be entailed. The general transfer of execution work to the Civil Courts is not likely to result in greater expedition or in the reduction of cost to parties. Execution may ordinarily remain with the Revenue Department, but the higher Revenue Officers should interest themselves much more closely and actively in the progress and speeding up of the work.

The Secretary of the society concerned should take the initiative in applying to the Amildar for execution, with all necessary particulars as regards the defaulter and his assets.

It is important that societies should have adequate contact with the proceedings in execution, and that they should invariably be consulted before action affecting their interests is taken, such as the grant of time to the debtor or the cancellation of a sale. The special Revenue Inspectors are expected to give due intimation to societies before taking action. The Secretary of the society should also keep in touch with the Revenue Inspector during the course of execution proceedings.

The purchase of lands by co-operative societies in execution should only be made sparingly and as a last resort. Where, owing to combination or other reason, proper bids cannot be had, societies may have to make their own bids; but they should not be compelled to offer more than what they themselves consider reasonable.

When a judgment-debtor voluntarily deposits the decreed amount subsequent to the initiation of execution proceedings, he need not be required to pay the usual percentage contribution towards costs, in cases where execution has not actually been set on foot and no cost has therefore been incurred."

The Registrar is requested to submit, for the consideration of Government, drafts of the amendments to be made in the Co-operative Societies Act and of the rules to be issued under it in order to give effect to the decisions contained in this order.

P. H. KRISHNA RAO,
*Secretary to Government,*
*Local Self-Government Department.*

To—The Registrar of Co-operative Societies in Mysore.
The Revenue Commissioner in Mysore.
The Deputy Commissioners of Districts.
The Registrar, High Court of Mysore, with covering letter.
The other Heads of Departments.

Exd.—C. K.

No. D. 1909-79—C. S. 11-36-297, DATED 19TH SEPTEMBER 1938.

## ANNEXURE.

Winding up prior to cancellation of registration.

The introduction of an intermediate stage of "winding up" (as in Burma and Bombay), prior to actual cancellation of registration, will remove certain anomalies, allow of a society being revived after its affairs are put in order, and obviate resort to compulsory liquidation.

Compulsory liquidation.

The power of compulsory liquidation is not preventive, but punitive, and its employment should be postponed, as far as possible, till milder remedies have been tried and found ineffective. It should only be resorted to when all methods of recovering arrears—persuasive or coercive—are exhausted, and most of the outstanding debts or either bad or irrecoverable.

Notice prior to cancellation or winding up.

The Act does not require notice to be given before registration is cancelled or winding up is ordered. A rule may be prescribed requiring two months' clear notice to be given to the society specifying the ground of the proposed order.

Enforcement of orders of liquidator.

The orders of the liquidator in regard to the collection and distribution of assets have at present to be enforced by application to the Civil Court, with its attendant delays and difficulties. Provision may be made (as in Bombay and Madras) for the summary recovery of members' debts under the liquidator's orders through execution by the Revenue Department in the same manner as arrears of land revenue.

Contributions in case of unlimited liability.

With a view to prevent abuse or misapplication of the discretion given to the liquidator to determine the contributions to be made by members, it is necessary to lay down by rule that any deficit should, after the full payment of shares, be recoverable by a series of *per capita* levies upon the members to the full extent of their property. This will equalize the individual burden at each levy, and so leave less discretion to the liquidator.

Agency for liquidation.

The services of suitable non-official gentlemen may be secured on payment of a commission of 5 per cent on realisations; otherwise, one of the Registrar's staff may be utilized.

Amendment of provisions regarding liquidation.

The law as contained in Section 42 of the Act requires to be amended in certain respects.

Section 42-B should be extended to cover cases of apprehended disposal or removal of property after passing of the order and before it is sought to be put in execution.

Reference of dispute on default of action by Committee.

To provide for cases in which action to recover debts due is purposely delayed or not taken because the defaulter happens to be the Secretary himself or one of the other committee members or other influential person, the Registrar should have power to require the committee to make a reference within a specified time, and, on its failure to do so, to direct the Inspector or some other person nominated by him to make the reference.

Honorary Assistant Registrars.

The disposal of disputes would be materially helped if qualified persons were appointed as Honorary Assistant Registrars, at least one for each district and each important headquarter town, where such persons are available. Honorary Assistant Registrars may be given a moderate carriage allowance.

Fee for Arbitrators.

A panel of Arbitrators should be maintained for each district. Arbitrators should be paid, where necessary, a small fee for meeting incidental expenses, which need not exceed annas eight or rupee one per case. In exceptional circumstances, a higher fee may be specially allowed (including actual travelling expenses, if any).

Reference to Civil Courts.

The Registrar's discretion to refer a dispute to a Civil Court should be freely used where both parties desire it, or where the case involves complicated issues either of law or of adjustment of accounts on which the decision of a judicial tribunal would be desirable.

No. D. 1909-79—C. S. 11-36-297, DATED 19TH SEPTEMBER 1938.

Limitation in relation to Co-operative disputes.

On the difficult question whether disputes under the Co-operative Societies Act are or are not governed by the articles in the Limitation Act applicable to suits, the Committee's conclusion is that,—subject to any special provisions in the Co-operative Societies Act, like Sections 23 and 24,— the articles as to suits in general contained in the Limitation Act do apply to disputes.

Period to be extended.

In view of the special circumstances applicable, co-operative societies as such should have a longer period of limitation than that ordinarily available, within which to bring up disputes under the Co-operative Societies Act. A general provision doubling the usual period of limitation for suits (other than suits on hypothecation or mortgage) when brought by or on behalf of societies under the Co-operative Societies Act seems reasonable and desirable. The benefit of the increased period, when enacted should be given to disputes referred within a specified time after the enactment comes into operation.

The opportunity may also be taken to make it clear that, when a decision of the Registrar or of an arbitrator has to be referred to the Civil Court after the close of infructuous proceedings in the Revenue Department (as in cases coming under section 187-A of the Mysore Land Revenue Code), limitation should only begin to run after the termination of the Revenue proceedings and upon a formal reference by the Registrar to the Civil Court for execution. The starting point should be the date of issue of the sale certificate, and not that of the confirmation of sale.

Power to Registrar to recover dues.

The addition to the Mysore Co-operative Societies Act of a provision on the lines of section 57-A of the Madras Act empowering the Registrar, without prejudice to any other mode of recovery provided, to recover all sums due under a decision, award or order or under a Civil Court decree, by the attachment and sale of the property of the person against whom it has been passed, will be most useful, and tend to make execution more effective in many cases.

Power to initiate execution in default of action by Committee.

In cases where the managing committee of a society takes no action to put the decision or award in execution, or delays action owing to reluctance to proceed against an influential member or for other reason, the Registrar should take the necessary steps on his own initiative.

Choice of mode of execution.

Section 43-C (i) does not expressly state that the party seeking execution has a choice in the selection of the mode of execution. The point may be made clear.

Execution through Revenue Department.

Better results in the matter of the execution of co-operative decisions through the Revenue Department can only be attained by the exercise of adequate control over the work of the agency (ordinary and special) entrusted with execution work, and by close co-operation between that agency and the committees of the societies which hold the decrees for execution.

Alternatives considered.

A wholesale transfer of the work to the Co-operative Department is not necessary or practicable at the present stage, in view of the large addition to staff and heavy charges of execution that would be entailed. The general transfer of execution work to the Civil Courts is not likely to result in greater expedition or in the reduction of cost to parties. Execution may ordinarily remain with the Revenue Department, but the higher Revenue Officers should interest themselves much more closely and actively in the progress and speeding up of the work.

Special Recovery Staff.

At the same time, the quantity of execution work of all kinds that has to be done seems to justify the immediate employment of a special staff of Revenue Inspectors solely for such work in some, if not all, of the districts. One Special Inspector may be entertained for one or more taluks according to the quantity of the work. It may be eventually necessary to have a specialized agency for each district solely concerned with the recovery of societies' dues and wholly paid, out of the fees levied, and to place it under the charge of a Special Officer of the grade of an Amildar.

No. D. 1909-79—C. S. 11-36-297, DATED 19TH SEPTEMBER 1938.

A scheme for the appointment of Special Recovery Officers, as in Madras and Bombay, may be tried in Mysore, the staff being at first on a temporary basis; if it be found to be self-supporting, as well as permanently useful and effective for its main purpose, the question of its further continuance may be considered in the light of such experience.

Transmission of Decree.

Much avoidable time is now taken up in the transmission of co-operative decrees through the regular channels to the Revenue Inspector. There is no reason why a decision should not be sent direct from the Co-operative Department to the Amildar of the taluk where it is to be executed.

Contact between Society and Revenue Agency.

The Secretary of the Society concerned should take the initiative in applying to the Amildar for execution, with all necessary particulars as regards the defaulter and his assets.

It is important that societies should have adequate contact with the proceedings in execution, and that they should invariably be consulted before action affecting their interests is taken, such as the grant of time to the debtor or the cancellation of a sale. The special Revenue Inspectors are expected to give due intimation to societies before taking action. The Secretary of the society should also keep in touch with the Revenue Inspector during the course of execution proceedings.

Possession of property sold in execution.

The purchaser of property at a revenue sale in execution of a co-operative decree should be placed on the same level as to obtaining possession, as a purchaser of an occupancy or alienated holding under a sale for land revenue arrears. It will be open to any person claiming in good faith to be in possession of the property on his own account or on account of some person other than the judgment-debtor to seek redress from the Civil Courts. An alteration of the law on the above lines is very necessary, and may be effected at an early date.

Purchase by Societies.

The purchase of lands by co-operative societies in execution should only be made sparingly and as a last resort. Where, owing to combination or other reason, proper bids cannot be had, societies may have to make their own bids; but they should not be compelled to offer more than what they themselves consider reasonable.

Attachments after decision.

Sub-section (4) of Section 43-A empowers the Registrar to direct a conditional attachment of property prior to decision. Such a power may advantageously be extended to cases of apprehended alienations by defaulters in the interval between the passing of the decision and the actual initiation of execution proceedings.

The Land Revenue Code should be amended so as to provide for the attachment of immovable property sought to be proceeded against for the realization of societies' dues.

Voluntary payments.

When a judgment-debtor voluntarily deposits the decreed amount subsequent to the initiation of execution proceedings, he need not be required to pay the usual percentage contribution towards costs, in cases where execution has not actually been set on foot and no cost has therefore been incurred.

Attachment of salaries.

Where there are more decrees than one requiring execution against the same official, the head of the office concerned must be required to make rateable distribution of the permissible amount among all the decrees.

Apart from cases where decrees have been obtained, heads of offices may well co-operate in making periodical recoveries from the salaries of employees who have agreed in writing to this mode of discharging loans contracted from societies.

Prosecutions and Suits.

In order to protect office-bearers of societies from unnecessary harassment, the Registrar should be given an opportunity to examine all cases of alleged misconduct on the part of members of managing committees, before criminal prosecutions are launched.

Similarly in cases of civil liability, not falling within the definition of a dispute, it must be made obligatory to serve a notice on the Registrar at least two months before filing a suit against a society or its managing committee, so as to give the Registrar sufficient opportunity to look into the matter and save the society from unnecessary litigation.

WD 564—GPB—795—11-10-38

G.R.S. III—3]

**Routine Notes.**

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Section 43A (4)
as at present

Where the Registrar is satisfied by affidavit or otherwise that a person to a reference made to him under subsection (1) with intent to defeat or delay the execution of any decision that may be given thereon.

the Registrar may, ... direct the conditional attachment of the said property ...

Section 43A (4)
as proposed

Where the Registrar is satisfied by affidavit or otherwise that a person to a reference made to him under section (1) with intent to defeat or delay the execution of any decision that may be or has been given thereon

the Registrar may ... direct the conditional attachment of the said property ...

*N.B.—Should routine notes be written on small slips, this notes must be copied, or slips pasted on this form.*

Section 158 of the Land Revenue Code

G.R.S. III—3]

**Routine Notes.**

[To be used only for notes, requisitions, etc., not intended for permanent record.]

As at present

An arrear of land revenue may be recovered by the following processes:

(a) by serving a written notice of demand on the defaulter under section 158

(b) by forfeiture of the occupancy or alienated holding in respect of which the arrear is due under section 159.

(c) by distraint and sale of the defaulter's movable property under section 160

(d) by sale of the defaulter's immovable property under section 161

(e) by arrest and imprisonment of the defaulter under section 163 + 164

(f) in the case of alienated holdings consisting of entire villages or shares of villages, by attachment of the said villages or shares of villages under section 165 to 169

As proposed to be amended

Add a clause at the end of this section as follows

In the case of (d) above the Amildar or Deputy Amildar shall have power to issue effectual conditional attachment as might be ordered by the Registrar of Co-operative Societies or Any Assistant Registrar under section 43-A (b) of the Bombay Co-operative Societies Act.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

# COMMITTEE ON CO-OPERATION IN MYSORE.

*QUESTIONNAIRE.*

## MEMORANDUM.

This Committee was appointed by the Government of Mysore on 29th October 1935, for the purpose of enquiring into the present state of the Co-operative Movement in Mysore in its various forms, with reference not only to co-operative credit but also to co-operative production, distribution and sale, as well as to house building, insurance and other relatively less developed fields of co-operative activity. Among matters that will engage the attention of the Committee, the investigation of the financial system generally, including the connection between the various parts of the co-operative organization and the working and future development of Land Mortgage Banks, will occupy an important place. The instructions to the Committee include also an enquiry into the most appropriate methods of promoting efficiency and convenience in such matters as propaganda, supervision, control and management of institutions and the disposal of co-operative disputes.

In order to facilitate the enquiry as well as to give a full opportunity to all persons interested to place before the Committee their considered views and suggestions, a detailed set of questions arranged under various heads, has been drawn up, and the same is published for general information. There are several questions of general interest dealing with matters such as may be within the knowledge or experience of a large number of persons who are not immediately or directly connected with the day-to-day working of particular types of societies, and at the same time some questions are of a technical nature which only those actually engaged in the administration of societies can be in a position to deal with. It is not expected, therefore, that all persons will be inclined to take up all the questions, nor on the other hand is it the intention to limit the expression of opinions and suggestions to only those points which are covered by the questionnaire. The Committee will welcome all expressions of views on any matter within the scope of the enquiry whether included in the questionnaire or not.

It is particularly requested that answers may be furnished as soon as possible, and not later than the 1st January 1936, to the address of the Secretary to the Committee on Co-operation in Mysore, Public Offices, Bangalore.

Copies of the questionnaire may be had on application to that officer.

BANGALORE,
*Dated 21st Nov. 1935.*

K. S. CHANDRASEKHARA AIYAR,
*Chairman.*

NOTE.—In replying to the questionnaire, it is requested that the following particulars also may be furnished along with the replies :—

1. Name of the person answering .....
2. Age .....
3. Occupation .....
4. Residence .....
5. Caste and Community .....
6. Particulars, if any, bearing on special knowledge or experience regarding the subject .....

W D 938—GPB—1,500—26-11-35

G.R.S. III—3]

**Routine Notes.**

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Section 161 of the Land Rev. Code

The Deputy Commissioner may also cause the right, and interest of the defaulter in any immoveable property, other than the land on which the arrear is due, to be sold

Section 162 of the L.R.C

All such property as is by the Civil Procedure Code exempted from attachment or sale in execution of a decree shall also be exempted from distraint or sale under either of the last two preceding sections

The Deputy Commissioner's decision as to what property is so entitled to exemption shall be final

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W D 933—GPB—1,500—26-11-35

G.R.S. III—3]

**Routine Notes.**

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Amendment to Section 43C of the Act

1) Every order passed by the Registrar or his nominee or Arbitrator or arbitrators on disputes referred to them under Sec 43A shall, if not carried out be executed

(a) on a certificate signed by the Registrar by any Civil Court in the same manner as a decree of that Court

(b) according to law ... by the seizure of ... and sale of land revenue ... by certificate signed by the Registrar.

New Section 43CC

Any order of attachment passed by the Registrar under Section 42-B or under sub-section (1) of Section 43A shall, on the requisition of the Registrar, be executed by the Deputy Commissioner of the District in which the property is situated, in the same manner as an order of a Revenue Court under the Bombay Land Revenue Code or the Rules thereunder.

*N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.*

# COMMITTEE ON CO-OPERATION IN MYSORE.

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## MEMORANDUM.

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In order to facilitate the enquiry as well as to give a full opportunity to all persons interested to place before the Committee their considered views and suggestions, a detailed set of questions arranged under various heads, has been drawn up, and the same is published for general information. There are several questions of general interest dealing with matters such as may be within the knowledge or experience of a large number of persons who are not immediately or directly connected with the day-to-day working of particular types of societies, and at the same time some questions are of a technical nature which only those actually engaged in the administration of societies can be in a position to deal with. It is not expected, therefore, that all persons will be inclined to take up all the questions, nor on the other hand is it the intention to limit the expression of opinions and suggestions to only those points which are covered by the questionnaire. The Committee will welcome all expressions of views on any matter within the scope of the enquiry whether included in the questionnaire or not.

It is particularly requested that answers may be furnished as soon as possible, and not later than the 1st January 1936, to the address of the Secretary to the Committee on Co-operation in Mysore, Public Offices, Bangalore.

Copies of the questionnaire may be had on application to that officer.

BANGALORE.
*Dated 21st Nov. 1935.*

K. S. CHANDRASEKHARA AIYAR,
*Chairman.*

NOTE.—In replying to the questionnaire, it is requested that the following particulars also may be furnished along with the replies :—

1. Name of the person answering .....
2. Age .....
3. Occupation.....
4. Residence.....
5. Caste and Community.....
6. Particulars, if any, bearing on special knowledge or experience regarding the subject.....

W D 988—GPB—1,500—26-11-35

G.R.S. III—3]

**Routine Notes.**

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Section 57A of the Madras Act

The Registrar or any person subordinate to him empowered by
Registrar in this behalf may subject to rules as may be prescr
by the Local Government and without prejudice to any ot
mode of recovery provided by or under the Act recover
(a) any amount due under a decree or order of a Civil
Court, a decision or an award of the Registrar or arbitrator
or an order of the Registrar, obtained by a registered society
including a financing bank or ~~to the Government~~ liquidator or
(b) any sum awarded by way of costs under Section 61
a registered society including a financing bank or to
Government or
(c) any sum ordered under Section 69 to be recovered as a
Contribution to the assets of a society or as costs of
liquidation or
(d) any sum ordered under Section 49 to be repaid to a dec
or recovered as a Contribution to its assets,
together with the interest if any due on such amo
or sum and the costs of process, by the attachment and
sale or by the sale without attachment of property
the person against whom such decree, decision, award
or order has been obtained and passed.

*N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.*

# COMMITTEE ON CO-OPERATION IN MYSORE.

## *QUESTIONNAIRE.*

## MEMORANDUM.

This Committee was appointed by the Government of Mysore on 29th October 1935, for the purpose of enquiring into the present state of the Co-operative Movement in Mysore in its various forms, with reference not only to co-operative credit but also to co-operative production, distribution and sale, as well as to house building, insurance and other relatively less developed fields of co-operative activity. Among matters that will engage the attention of the Committee, the investigation of the financial system generally, including the connection between the various parts of the co-operative organization and the working and future development of Land Mortgage Banks, will occupy an important place. The instructions to the Committee include also an enquiry into the most appropriate methods of promoting efficiency and convenience in such matters as propaganda, supervision, control and management of institutions and the disposal of co-operative disputes.

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BANGALORE,
*Dated 21st Nov. 1935.*

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*Chairman.*

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5. Caste and Community.....
6. Particulars, if any, bearing on special knowledge or experience regarding the subject.....

W D 988—GPB—1,500—26-11-35

G.R.S. III—3]

**Routine Notes.**

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Section 63 C of the Negros Co-op Societies A

1) Every order issued by a liquidator under Section
or by the Registrar or his nominee or arbitrator
. arbitrators on disputes refd to him or them under
shall if not carried out, be executed
(a) on a certificate signed by the Registrar or a liq
by any Civil Court in the same manner as a
of such Court or
(b) according to the Law and under the rules for the
being in force for the recovery of arrears of land
provided that any application for the recovery
manner shall be made to the Deputy Commissioner
be accompanied by a certificate signed by the Regi
by an Assistant Registrar to whom the said power has
delegated by the Registrar

2) Where the property attached in execution of
refd to in Subsection (1) cannot be sold for wa
buyers the same may be removed over to a reg
society with the previous consent of the Registrar
such terms and conditions as may be agreed
between the Deputy Commissioner and the said

N.B.—Should routine notes be written on small-size
notes must be in this form.

# COMMITTEE ON CO-OPERATION IN MYSORE.

## *QUESTIONNAIRE.*

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W D 938—GPB—1,500—26-11-35

A Bill further to amend the Mysore Co-operative Societies Act VII of 1918.

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Whereas it is expedient further to amend the Mysore Co-operative Societies' Act VII of 1918, as amended by Acts V of 1928, VI of 1933 and I of 1935; it is hereby enacted as follows:-

This Act may be called the Mysore Co-operative Societies' Amending Act of 1939.

1.In Section 2 of the Mysore Co-operative Societies' Act, 1918,(hereinafter referred to as the said Act) insert the following as definitions (f) (g) and (h) and re-number definitions (f), (g) and (h) as (i), (j) and (k) respectively:-

(f) "Dispute" means any matter which may form the subject of civil litigation and includes a claim for dues to or by a society".

(g) "Arbitrator" means the person or persons appointed by the Registrar under Section 43 A (2) (b) to decide any dispute referred to him.

(h) "Liquidator" means a person or persons appointed by the Legislature under Section 42 to wind up the affairs of a society.

**Addition of a New Section.**

2. Introduce the following after section 5 as Section 5A in the said Act.-

**Change of liability.-**

5A-(1) Subject to the provisions of this Act and to any rules made in this behalf, a registered society may, with the previous sanction of the Registrar, change its liability from limited to unlimited or from unlimited to limited

Provided that

(i) the society shall give notice in writing of its intention to change its liability to all its members and creditors;

(ii) any member or creditor shall, notwithstanding any byelaw or contract to the contrary, have the option of withdrawing his shares, deposits or loans, as the case may be, within three months of the service of such notice on him and the change shall not take effect until all such claims have been satisfied; and

(iii) any member or creditor, who does not exercise his option within the period aforesaid, shall be deemed to have assented to the change.

(2) Nothwithstanding anything contained in the proviso to sub-section (1) the change shall take effect after the amendment of the byelaw as provided for in the Act and Rules is made if all the members and creditors assent thereto.

Addition of a new Section 11A.

3. Introduce the following under section 11 as Section 11A in the said Act.

Division of Societies.

11 A.

(1) Any registered society may, at a meeting of its general body specially called for the purpose of which at least seven clear days' notice shall be given to its members, resolve to divide itself into two or more societies. The resolution (here-in-after in this sub-section referred to as the preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide it and may prescribe the area of operations of, and specify the members who will constitute, each of the new societies.

(2) (i) A copy of the preliminary resolution shall be sent to all the members and creditors of the society.

(ii) Any member of the society may, notwithsta

the society within a period of three months from the date of his receipt of the preliminary resolution, intimate his intention not to become a member of any of the new societies.

(iii) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the aforesaid period intimate his intention to demand a return of the amount due to him

(3) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of the society, a meeting of the general body of the society, of which at least fifteen clear days' notice shall be given to its members, shall be convened for considering the preliminary resolution. If, at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present either without changes or with such changes as, in the opinion of the Registrar are not material, he may, subject to the provisions of Clause (5) and Section register the new societies and the byelaws thereof. On such registration, the registration of the old society shall be deemed to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are or not material shall be final and no appeal shall lie therefrom.

(4) At the meeting referred to in Clause (3) provision shall be made by another resolution for

(1) the repayment of the share capital of all the members who have given notice under sub-cla

of clause (2); and

(ii) the satisfaction of the claims of all the creditors who have given notice under sub-clause(iii) of clause (2)

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in clause (3).

(5) If, within such time as the Registrar considers reasonable, the share capital of the members referred to in clause (4) is not repaid or the claims of the creditors referred to in that clause are not satisfied, the Registrar may refuse to register the new societies.

(6) The registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under clause (3).

Addition of a new section 11 B.

4. Introduce the following as Section 11B in the said Act.

Registrar's power to direct amendment of Byelaws.

11B.(1)

"If it appears to the Registrar that an amendment of the byelaws of a co-operative society is necessary or desirable in the interest of such society he may in themanner prescribed by the Rules in this behalf call upon the society to make the amendment within such time as he may specify.

(2) If the society fails to make the amendment within the time specified by the Registrar, he may, after giving the society an opportunity of being heard, register such amendment and forward to the society in the manner prescribed a copy of the

amendment

amendment together with a certificate signed by him which shall be conclusive evidence that the amendment has been registered; and such amendment shall thereupon be binding on the society and its members.

(3) An appeal shall lie to the Government from any order of the Registrar passed under sub-section (2) within one month from the date of the communication by the Registrar of the registration of the amendment.

Amendment of Section 17 sub-section(2)

5.Substitute the following for sub-section (2) of section 17:-

(2) The audit under Sub-section (1) shall include:-

(a) A verification of the cash balance and securities;

(b) A verification of the balances at the credit of such proportion, as may be fixed by the Registrar, of the depositors and creditors and of the amounts due by the society's debtors;

(c) An examination of overdue debts, if any;

(d) A valuation of the assets and liabilities of the society;

(e) An examination of the transactions of the business of the society;

(f) A scrutiny of the transactions in the society of the members of the committee of management of the society.

(g) The verification of the statements of accounts of the society for the year prepared in the forms if any, prescribed by the Registrar; and

(h) a certification of the profits actually realised

Addition of a sub-section (5) to section 17.

6. Insert the following as sub-section (5) to Section 17.-

(5)"The statement of accounts verified and passed under Sub-section (2) shall be final and binding on the society, unless modified by the Registrar.

Amendment of Section 19.

7. Substitute the following for Section 19 of the Act.-

19 (1) "Subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue or of a land-lord in respect of rent or any money recoverable as rent, any debt or outstanding demand owing to a co-operative society by any member, past member or the estate of any deceased member shall be a first charge.

(a) If the demand is due in respect of the supply of, or any loan to provide the means of paying for, seed, manure, labour, subsistence, irrigation facilities, fodder for cattle or any other thing incidental to the conduct of agricultural operations, -- upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member, at any time within two years from the date on which the last instalment of such supply or loan became repayable;

(b) If the demand is due in respect of the supply of, or any loan for the purchase of cattle, agricultural implements or warehouses for the storage of agricultural produce - in the manner and to the extent aforesaid upon the crops of agricultural produce of such member, or past

member or belonging to the estate of such deceased member and also upon the cattle, agricultural implements or ware-houses thus supplied or purchased in whole or in part from any such loan

(c) If the demand is due in respect of the supply of, or any loan for the purchase of raw materials, industrial implements, machinery, work-shops, warehouses or business premises - upon the raw materials or other things supplied or purchased by such member, past member or deceased member in whole or in part from any such loan and also upon any articles manufactured from raw materials or with implements or machinery so supplied or purchased in whole or in part from any such loan; and

(d) If the demand is due in respect of any loan for the purchase or redemption of land - upon the land purchased or redeemed by such member, past member or deceased member in whole or in part from any such loan.

(2) Nothing contained in this Section shall effect the claims of any bonafide purchaser or transferee with possession for value without notice, of any such crops or other agricultural produce, fodder, cattle, agricultural or industrial implements, machinery, raw materials, workshops, warehouses, premises, manufactured articles or land.

Amendment of section 24

8. Substitute "two years" for "one year" in Section 24.

The section will read as follows after the amendment:-

24. "The estate of a deceased member shall be liable for a period of two years from the time of his decease for the debts of a registered society as they existed at the time of his decease".

Amendment of Section 39

9. Substitute the following for the existing Section 39 (1).-

39 (1). If the Registrar, after an enquiry has been held under Section 35 or after an inspection has been made under Section 36 or Section 36 A.or on receipt of an application made by three-fourths of the members of a registered society or of his own motion is of opinion that the society ought to be dissolved, he may issue a notice to the society intimating the society of his intention to order that the society be wound up and specifying the grounds for the proposed order.

(2) After the expiry of two months from the date of notice mentioned in the sub-section (1) above, and on a consideration of the objections if any to the proposed order, received from the members of the society, the Registrar, may by an order in writing, direct that the society be wound up.

(3) A copy of such order shall be communicated to the society and to the Financing Bank, if any, of which the society is a member.

(4) Any member of the society may within two months from the date of any order made under sub-section (2) appeal from such order to Government.

(5) Where no appeal is presented within

two months from the date of making the order under sub-section (2) above, the order shall take effect on the expiry of that period.

(6) Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the Government.

Amendment of Section 40

10. Substitute the words "direct that the society shall be wound up" for the word "cancel the registration of the society" in this Section.

The section will read as follows after the amendment

"Where it is a condition of the registratic of a society that it should consist of at least ten members the Registrar may, by order in writing, direct that the society shall be wound up, if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten".

11. Substitute the following for the existing Section 41.-

41 (1) Where the Registrar has passed an order for the winding up of a society either under Section 39 or 40, he may cancel the same in any case where, in his opinion, the society should continue as such;

(2) In any other case, the Registrar shall, after considering the final Report of the Liquidator, if any has been appointed, cancel the registration of the society and the society shall then cease to exist as a corporate body.

Sec 42

Amendment to Section 42.

12. Insert the words "subject to the Registrar's power of control and revision" and also subject to such directions as the Registrar may issue from time to time" between the words "shall" and "as" in Sub-section 2 of Section 42.

The section will read as follows after the amendments proposed are made

(2) A Liquidator appointed under Sub-Section (1) shall, subject to the Registrar's power of control and revision and also subject to such directions as the Registrar may issue from time to time and to the rules made in this behalf, as soon as the order of winding up takes effect, have power.
(a) to institute etc.

13. Substitute the following for clause (b) of Sub-section (2) of Section 42

"To determine from time to time the contributions to be made by the members or past members, the estates or nominees, heirs or legal representatives of deceased members or by any officer or past officer of the society respectively to the assets of the society, such contributions including debts due from such members or persons; to revise any order of contribution until the winding up is completed and to realise such contributions.

Provided that the Liquidator shall not determine the contribution, debt or assets to be recovered from any person unless an opportunity of being heard has been given to such person".

Addition of a clause to Section 42 (2)

14. Insert the following as clause (c) of

Sub-Section (2) of Section 42 and re-number the existing Clauses (c), (d) and (e) as (d),(e) and (f) respectively:-

(c) to refer disputes to the Registrar under Section 43 A of the Act.

Amendment of Sub-section (3) of Section 42.

15. Add the words "within one month from the date of communication of the order to the person concerned by the Liquidator after the word "Judge" in Sub-section (3) of Section 42.

The Sub-section will read as follows after the amendment:-

42 (3)"Where an appeal from any order made by the Liquidator under this Section is provided for by the rules, it shall lie to the court of the District Judge within one month from the date of communication of the order to the person concerned by the Liquidator".

Amendment of Sub-section (4) of Section 42.

16. Substitute the following for Sub-section 4 of Section 42:-

4(a) Any sum ordered under this Section by the Liquidator to be recovered as a contribution to the assets of the society or as costs of liquidation shall be recovered on a requisition being made in this behalf by the Liquidator to the Deputy Commissioner of the District, in the same manner as arrears of Land Revenue or to any Civil Court having local jurisdiction in the same manner as the decree of such court.

(b) Any order passed by the court of the District Judge on appeal preferred under Sub-Section(3) above,shall be enforced in the same manner as a decree of such court.

Amendment to section 42 B.

17. Insert the words "or has been" between

words "be" and "passed" in Section 42 B.

The section will read as follows after the amendment:-

"Where the Registrar is satisfied on the affidavit of the Liquidator or otherwise that any person with intent to defeat or delay the execution of any order that may be or has been passed against him under clause (b) of sub-section (2) of Section 42 ~~or under Section~~ or under Section 42 A -

Amendment of Section 43 A.

18. Substitute the following for existing Clause (c) of Sub-section (1) of Section 43 A.

(c)"Between the society or its Committee and any past committee, any officer or past-officer, any agent or past agent, any servant or past servant of the society or the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased servant of the society".

Amendments to Section 43 A.

19. (i) Insert the following proviso after the explanation in Sub-section (i) of Section 43 A:-

"Provided the Registrar may, in his discretion in the first instance or at any time before the dispute is finally disposed of by him or by the persons mentioned in clauses (a) and (b) of sub-section (2) of this section direct, or permit the party or parties referring the dispute to him as aforesaid to institute a regular suit in the Civil Court of competent jurisdiction".

(ii) omit the word "or" at the end of Clause (b) of Sub-section(2) of Section 43 (A) and change the "coma" after the word "arbitration" into a"full stop" in the said clause.

(iii) omit Clause (c) of Sub-Section (2) of Section 43 A.

This sub-section will read as follows after the amendments (ii) and (iii)

(2) Subject to such rules as may be prescribed the Registrar may on receipt of such reference

(a) decide the dispute himself or transfer it for disposal to any person ..... ... between or
(b) refer it for disposal to an arbitrator or arbitrators.

20. Insert the words "or has been" between wor "be" and "passed" in sub-section (4) of Section 43 A.

This sub-section will read as follows after the amendment:-

(4) Where the Registrar is satisfied by affidav or otherwise that a party to any reference made to him under sub-section (1) with intent to defeat or delay the execution of any decision that may be or has been passed thereon.

21. Introduce the following as Sub-section (7) to Section 43 A:-

(7)"The Registrar, in the case of disputes under this Section, shall have the power of review vested in a Civil Court under Section 114 and under Order XLVII, Rule 1 of the Code of Civil Procedure 1911, and shall also have the inherent jurisdiction specified in Section 151 of the said code.

Addition of a new Section as Section 43 AA.

22 (1) Add the following as Section 43 AA.after Section 43 A:-

43 AA.(1)Notwithstanding any of the provisions of the Mysore Limitation Act IV of 1911, the period of limitation for referring a dispute under Section

43 A of this Act shall be double the period specified in the Mysore Limitation Act for similar transactions.

Provided however that all disputes for which the period of limitation prescribed by this Section has expired on the date of passing of this Act or expires within six months from such date, shall be deemed to have been referred within the period of limitation if so referred within the said period of six months from the date of passing of this Act.

(2) Insert the following as Section 43AA(2):-

For the purpose of computing the period of limitation in respect of execution by the Civil Court of a decision or aw ard passed under Section 43 A, the period actually spent between the date of transmission of the decision or award by the Registrar to the Deputy Commissioner and the date of its return by the Deputy Commissioner to the Registrar shall be excluded.

Amendment to Section 43 B.

23. Insert the words "or any person authorised to hold an inquiry under Section 35 or an inspection under Section 36" between the words "Registrar" and "or" in Section 43 B.

The Section will read as follows after the amendments:-

43 B. Subject to such rules as may be prescribed, the Registrar or any person authorised to hold an enquiry under Section 35 or an inspection under Section 36, or any person or arbitrator or arbitrators to whom a dispute is referred or transferred for disposal under section 43A. . . . . .1911.

**Amendments to Section 43 C.**

24(1) Omit the words "by a Liquidator under Section 42 or" in sub-section (1) of Section 43 C.

(ii)omit the words "or a Liquidator" in clause (a) of Sub-section (1) of Section 43 C.

(iii) omit the words "or by an Assistant Registrar to whom the said power has been delegated by the Registrar".

This section (43C) will read as follows after the amendments:-

(1) Every order passed by the Registrar or his nominee or Arbitrator or Arbitrators on disputes referred to him or them under Section 43 A shall if not carried out be executed -

(a) on a certificate signed by the Registrar,- by any Civil Court in the same manner as a decree of such court or

(b) according to law . . . . . by a certificate signed by the Registrar."

**Addition of a new Section 43 CC.**

25. Introduce the following as Section 43 CC. after 43 C.-

"An order of attachment passed by the Registrar under Section 42 B or under Sub-section (4) of section 43 A.shall on the requisition of the Registrar be executed by the Deputy Commissioner of the District in which the property is situated, in the same manner, as an order of a Revenue Court under the Mysore Land Revenue Code and the Rules thereunder.

**Amendment to section 43 E.**

26. Substitute the words "has a first charge" for "is entitled to claim priority" ~~in this section~~ and lines 4 and 5 of this section and the word "charge" for"claim" in line 6 of this section.

This section will read as follows after the amendments:-

"Any member or past member or the nominee

. . . . . .

. . . . . .

the society has a first charge under that section or fraudulently doing any other Act to the prejudice of such charge, shall be punishable with fine not exceeding two hundred rupees."

27. Substitute the following for the existing Section 43 H.-

43 H (1) The Government may of their own motion or on the application of any person call for and examine the record of any enquiry, or the proceedings of the Registrar or any officer subordinate to him or any person acting on his authority, for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer or person. If in any case it shall appear to Government, that any decision or order or proceedings so called for should be modified, annulled or reversed, the Government may pass such order thereon as to them may seem fit.

(2) The Registrar may of his own motion or on the application of any person call for and examine the record of any enquiry or the proceedings of any officer subordinate to him or acting on his authority or of a Liquidator under Section 42 and if it appears to him that any decision, or order or proceedings should for any reason be modified,

annulled or reversed he may pass such orders thereon as to him may seem fit"

Introduction of an additional Section 43 I.

28. Introduce the following as Section 43 I.

43 I. Notwithstanding anything contained in sections 9,11 and 38 A, appeals against the orders passed under these Sections by persons appointed to assist the Registrar under Section 4 shall lie to the Registrar and his orders in appeal shall be final".

Introduction of an additional section 43 J.

29. Introduce the following as Section 43 J.

43 J. The Government may delegate to the Registrar the power of hearing appeals under the Act against the decisions of the person appointed to assist the Registrar under Section 4 of the Act and also specify in what cases the decisions of the Registrar on such appeals shall be final.

Introduction of a new section 43 K.

30. Introduce the following as Section 43 K.

43 K. The Registrar, a person exercising the powers of the Registrar, a person authorised to hold an enquiry, under Section 35 or conduct an inspection under Section 36, a Liquidator, person who has been invested by the Government with the power of hearing disputes under section 43A(2) (a), and an Arbitrator or Arbitrators to whom any dispute is referred under Section 43 A (2) (b) shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code as in force in Mysore

General Clauses Act.

31. Introduce the following as Section 43 L.

43 L.(1) The Registrar or the Committee of Management of a Financing Bank in the case of societies indebted to it, may direct the

Committee of a society to take action under Section 43 A against a member of such society for the recovery of the moneys due by such member to the society and if the committee of the society neglects or fails to do so, any person authorised by the Registrar in this behalf or the Financing Bank may take such action.

(ii) Where such action is taken by the person authorised as above or by the Financing Bank, the provisions of this Act and of any Rules made thereunder or the byelaws of such society, shall apply in respect thereto as if all references to the society and to its committee in the said provisions were references to the person authorised or the Financing Bank and its Committe of Management respectively.

## Statement of Objects and Reasons.

The Chandrasekhara Iyer Committee on Co-operation in Mysore have in their Report pointed out the necessity for amending the Mysore Co-operative Societies' Act in certain respects for meeting the demands of the Movement as it stands at present and for effectively controlling and checking and improving the working of the societies so that the Movement may take its rightful place in the amelioration of the economic condition of the people.

The unsatisfactory working of many a society is generally due to its mismanagement by a few influential members and their negligence to adopt business principles or even the ordinary care of a person of average intelligence and business acumen and so ex-officers of societies and ex-members of the committees of management are made liable to the societies for losses which can be traced to their gross negligence in their discharge of their duties. Certain omissions in the provisions of the existing Act pointed out by the Chandrasekhara Iyer Committee have been inserted in the Bill. The "priority of claim" which the societies have in respect of certain demands due by their members is converted into a "first charge". Provision has been made for speeding up liquidation proceedings and for affording facilities to societies for the speedy recovery of their dues.

The important provisions of the Bill may be briefly summarised as follows:-

i. Clear definitions of the expressions "Dispute," "Arbitrator" and "Liquidator" have been inserted.

ii. Societies may change their liability from Unlimited to Limited or vice versa with the consent of their members and creditors.

iii. Provision has been made for the division of societies.

iv. The Registrar is empowered to direct amendments to antiquated byelaws of societies which in his opinion are not in

in accordance with the present day conditions and accepted principles.

v. A clear and comprehensive definition of "Audit" is inserted and its scope enlarged.

vi. The prior claim of societies in respect of certain kinds of loans granted by them is changed into a first charge.

vii. Order of winding up is made to precede cancellation of registration.

viii. The Liquidator's powers and acts are subjected to the control and supervision of the Registrar.

ix. Disputes between Ex-Officers and Committee members of societies and societies are provided for.

x. Period of limitation for co-operative claims is fixed.

xi. The Registrar is empowered to hear and dispose of - appeals against the orders of the Assistant Registrars under Sections 9 and 11 of the Act.

xii. Provision is made for the filing of disputes by Financing Banks or other persons authorised by the Registrar in this behalf.

The provisions of the Bill are mainly intended to stimulate the adoption of business methods and to inculcate a healthy sense of responsibility in the members of the managing committees of societies in order to improve the working of the societies and the general tone of the Movement and ensure its development on sound lines.

L.S.25/3. Registrar.

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## NOTES ON CLAUSES.

1. In Clause 1 of the Bill definitions of the expressions "Dispute", "Arbitrator" and "Liquidator" are inserted.

2. It is proposed that change of liability of a society has to be made after giving an option to the creditors and members of the society to be exercised within a reasonable time, of accepting the change or withdrawing their relationship with the society. At present the liability can be changed by amending the byelaws.

3. This Clause provides for the division of societies as recommended by the Committee on Co-operation and follows Section 13 of the Madras Co-operative Societies Act - 1932. (Vide para 3 of G.O.No.D.1113/C.S.11-36-144 dated 31-9-1937).

4. Many societies have overlapping jurisdictions; some of their byelaws are antiquated and are against the accepted principles of Co-operation; and the Registrar has no powers at present to fix the minimum and maximum rates of interest on borrowings and lendings with the result that there is a sort of unhealthy competition among societies for attracting more members and also deposits. This has resulted in a set-back to the Movement.

The byelaws adopted at the time of formation and registration of the society are sometimes found to be hide-bound and require to be amended, but suggestions for such amendments from th Department are generally rejected, resulting in continued mismanagement. With a view to enable the Registrar to put a stop to such evils and make each society to serve the needs of persons residing within the specified area of its operations fully, this clause is proposed. Appeal has been provided for. This amendment is on a par with similar provisions in the Bihar and Orissa Co-operative Societies' Act of 1935 and the Bengal Co-operative Societies' Bill of 1938.

5 & 6. The scope of audit is enlarged, so that it may be more comprehensive, thorough and searching.

7. The prior claim of a society in respect of certain kinds

kinds of loans granted by it to agriculturists and artizans is converted into a first charge. The Chandrasekhara Iyer Committee on Co-operation in Mysore have recommended this change and it is necessary and desirable to enable us to extend the facilities for crop advances by the societies. (vide para 7 of G.O.No.D.1150/C.S. 11-36-284 dated 17th August 1938).

8. The period of liability of the estate of a deceased member is enhanced to two years as recommended by the Committee on Co-operation in Mysore (vide G.O.No.D.1909-79/C.S.11-36-297 dated 19-9-1938).

9 & 10. Provision is made for an order of winding up of a society so that its accounts may be adjusted and then its registration cancelled. This provision is made on the recommendations of the Committee. (G.O.No.D.1909-79/C.S.11-36-297 dated 19-9-38).

11. As the Law stands at present, the Liquidator's orders if not appealed against in the District Court are final. It is desirable in the interests of the ignorant parties that the Registrar should have powers of control and revision over the actions and orders of the Liquidator. The Committee on Co-operation have also recommended this. (Vide G.O.No.D.1909-79/C.S.11-36-297 dated 19-9-1938).

12. The contributions to the assets of the society in liquidation are made recoverable from past officers and they include debts due to the society. It is also provided that every person against whom an order is passed should be given an opportunity of being heard. (G.O.No.D.1909-79/C.S.11-36-297 dated 19-9-38).

13. The Liquidator is given the power of filing disputes before the Registrar. (G.O.No.D.1909-79/C.S.11-36-297 dated 19-9-38).

14. Period within which the appeal is to be filed against the orders of the Liquidators is fixed.

15. Liquidators' contributory orders are made executable by the Revenue Officers as if they are arrears of land revenue. This

This is specifically provided for here which is the proper place for it and the existing provision in Section 43 C. is deleted (G.O.No.D.161-62/C.S.11-36-274 dated 8-7-1938).

16 & 19. The power of attaching properties in respect of decisions or orders already passed is also proposed to be conferred, as recommended by the Committee on Co-operation. (G.O.No D.1909-79/C.S.11-36-297 dated 19-9-38).

17. Provision is made for disputes against ex-officers and ex-committees of the society by by the society, being heard by the Registrar. This is in conformity with the law on the subject as in force in Madras, and Bhihar and Orissa and as proposed for Bengal. (G.O.No.D.661/C.S.11-36-140 dated 22-6-1937).

18. Section 43 A(1) directs that the dispute shall be referred to the Registrar for decision. Clause (C) of Sub-Section (2) of Section 43 A.provides for referring the parties to the Civil Court, on receipt of the reference. This means that the dispute must first be presented before the Registrar duly stamped as laid down in Rule 16(1) of the Rules under the Act and then an order passed referring the parties to the Civil Court. The manner of referring parties to the Civil Court is not mentioned. Hence the amendment, which makes the meaning and procedure clearer. This change is in conformity with the Bombay Act.

20. The power of review and the inherent jurisdiction is specifically conferred on the Registrar. This is in confirmity with the Bihar and Orissa Act.

21. This clause fixes in the case of claims by co-operative societies the period of limitation at double the ordinary period allowed under the Limitation Act. Provision is also made for the computation of the period of limitation in respect of execution of decisions in the Civil Court or the Revenue Department on the lines of Committee's recommendations. (G.O.No.D.3633-43/C.S. 11-36-204 dated 13-11-1937).

22. The power of enforcing the attendance of witnesses is

is conferred on persons holding an enquiry under Section 35.

23. The first amendment is consequential to Clause 15 of the Bill. As the power of hearing disputes has been conferred on the Assistant Registrars, it is unnecessary that the Registrar should be empowered to delegate powers to Assistant Registrar to send decisions for executions and hence the Clause 24(iii).

24. At present there is no provision for the execution of th order of attachment made by the Registrar under 42 B. or 43 A. E this clause sets right this defect.

25. This amendment is consequential to the amendment of Section 19.

26. The provisional powers of Government and the Registrar are made more specific and clear.

27. Appeals against the orders of the Assistant Registrars under Section 9,11 and 33 A. to the Registrar are provided. (G.O. No.D.6712/C.S.30-38-3 dated 12-1-1937).

28. A provision is made for the delegation of powers of Government under the Act to the Registrar.

29. The inclusion of the Officers of the Department, Arbitrators, Liquidators etc., under the term "Public Servants" is desirable in the larger interests of the Movement.

30. A financing Bank and any person authorised by the Registrar in writing in this behalf should have power to direct the filing of disputes and to file disputes if the instructions are not carried out. (G.O.No.D.1909-79/C.S.11-36-297 dated 19-8-38).

L.S.25/3. Registrar.

## Amendment of the Cooperative Societies Act

Add the following as section 35 A.

Inspection by Deputy Commissioner

The Deputy Commissioner of the District in which the society is situated may at any time inspect the books, accounts, papers cash and securities of the society and every officer and member of the society shall furnish such information in regard to the transaction and working of the society as the Deputy Commissioner may require and the result of such inspection shall be communicated to the Registrar.

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Re: attachment and sale of property of debtor of Cooperative Society

The Registrar or any person subordinate to him empowered by the Registrar in this behalf may, subject to such rules as may be prescribed by Government and subject to prior rights of any other money recovery provided by or under this Act recover:-

(a) any amount due under a decree or order of a Civil Court, a decision of the Registrar or an award of the arbitrator obtained by a registered society including a financing bank, or liquidator; or

(b) any sum awarded by way of costs under Section 37 to a registered society including a financing bank or to the Government; or

(c) any sum ordered under Section 42 to be recovered as a contribution to the assets of the society or as costs of liquidation; or

(d) any sum ordered under Section 42A to be repaid to a society or recovered as a contribution to its assets, together with the interest, if any, due on such amount or sum and the cost of process

by the attachment and sale of the property — except standing crops, — of the person against whom such decree, decision, award or order has been passed.

G.R.S. III—3]

ROUTINE NOTES

[To be used only for notes, requisitions, etc., not intended for permanent record.]

1) Clause 2 — Section 5A — Objection of the Local Authority may be accepted and the amendment accepted.

4 — Section 11B — The words "registered dentist" may be [illegible] The suggested clause is stated to be unnecessary

3) 7 — Section 19A — The register may be consulted as to [illegible]

9) 9 — Section 35 — The amendment proposed may be ac[illegible]

5) 12 — Section 41 — The Register may be consulted as to the [illegible] assessment

— do —

13 — Section 42(2) —

7) 20 — Section 42A(2)(c) — Amendment of the Act may be accepted.

— Register may be consulted

8) 25 — Section 43E — do as to [illegible] amendment

9) 27 — Section 43I — Amendment may be accepted but the Register must be consulted.

28 — Section 43J — The Register may be consulted

1) 29 — Section 43K — The amendment may be

31 — Section 43M

32 — Section 43N

This Section was considered in connection with the Register of Consideration is the Case for [illegible] the question of a [illegible] The first thought was to [illegible] but [illegible] the file. The [illegible] that the Section

14) 33 — Section — 44(5) —

*N.B.—should routine notes be written on small slips, the notes must be copied or slips pasted on this form.*

Brought back from [illegible]

WD 078—GPB—30,000—25-7-40

G.R.S. III—3]

ROUTINE NOTES

[To be used only for notes, requisitions, etc., not intended for permanent record.]

## Mysore Companies Act

Extract from Section 11(3) of the Act

11(3) Except with the previous consent of the Government given in writing under the hand of one of the Secretaries to the Government, no company shall be registered by a name which

(a) Contains any of the following words namely "Maharaja" "Royal" "State" or any word which imports or is calculated to import the patronage of H.H. the Maharaja or any connection with H.H. Government &c

Provided that, notwithstanding anything contained in Section 290, the Court may at any time, after hearing a notice in writing giving reasons and after hearing objections, if any, that has been required any company registered either before or after the passing of this Act under any enactment for the time being in force with a name containing such words, to alter or omit those words within a period of three months from the date on which the order is communicated to the Company

x x x x

## Mysore Partnership Act

Extract of Section 58(3) of the Act

58(3) A ~~firm~~ name shall not contain any of the following namely:- "Crown" "Emperor" "Empress" "Empire" "Imperial" "King" "Queen" "Royal" "Maharaja" or words expressing or implying the sanction, approval or patronage of H.H. the Maharaja or the Government except when the Government signifies its consent to the use of such words as part of the name by order in writing under the hand of one of the Secretaries to the Government.

N.B.—*should routine notes be written on small slips, the notes must be copied on slips pasted on this form.*

WP 078—GPB—30,000—25-7-40